## \*\*\* 1NC

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#### First off is the deference to victims critique—

#### The alternative is to endorse their advocacy. We should affirm hunger strikes of military detainees as a form of revolutionary suicide to restrict the presidential war powers of indefinite detention as an ethical interrogation of the conditions that made force feeding possible.

#### This is a critique of their role of the judge which says you must always align with those who are most vulnerable.

#### Deference to the Victim Link—their arguments are appealing but ultimately amount to a reification of fixed identities. You, as the perpetuator of the conditions that make force feeding possible may feel ethically responsible to the victim. The ballot won’t heal the aff’s pain and only serves to create a perverse competition for victimhood. This results in an endless pursuit of revenge, rather than provide emancipation to marginalized populations

Diane ENNS, Associate Professor of Philosophy at McMaster University, 12 [*The Violence of Victimhood*, Penn State Press, Google Books, pg. 28-30, (Gender Modified—Sigalos)]

We need to think carefully about what is at stake here. Why is this perspective appealing, and what are its effects? At first glance, the argument appears simple: white, privileged women, in their theoretical and practical interventions, must take into account the experiences and conceptual work of women who are less fortunate and less powerful, have fewer resources, and are therefore more subject to systemic oppression. The lesson of feminism's mistakes in the civil rights era is that this “mainstream” group must not speak for other women. But such a view must be interrogated. Its effects, as I have argued, include a veneration of the other, moral currency for the victim, and an insidious competition for victimhood. We will see in later chapters that these effects are also common in situations of conflict where the stakes are much higher.

We witness here a twofold appeal: otherness discourse in feminism appeals both to the guilt of the privileged and to the resentment, or ressentiment, of the other. Suleri's allusion to “embarrassed privilege” exposes the operation of guilt in the misunderstanding that often divides Western feminists from women in the developing world, or white women from women of color. The guilt of those who feel themselves deeply implicated in and responsible for imperialism merely reinforces an imperialist benevolence, polarizes us unambiguously by locking us into the categories of victim and perpetrator, and blinds us to the power and agency of the other. Many fail to see that it is embarrassing and insulting for those identified as victimized others not to be subjected to the same critical intervention and held to the same demands of moral and political responsibility. Though we are by no means equal in power and ability, wealth and advantage, we are all collectively responsible for the world we inhabit in common. The condition of victimhood does not absolve one of moral responsibility. I will return to this point repeatedly throughout this book.

Mohanty's perspective ignores the possibility that one can become attached to one's subordinated status, which introduces the concept of ressentiment, the focus of much recent interest in the injury caused by racism and colonization. Nietzsche describes ressentiment as the overwhelming sentiment of “slave morality” the revolt that begins when ressentiment itself becomes creative and gives birth to values.19 The sufferer in this schema seeks out a cause for [their] suffering—”a guilty agent who is susceptible to suffering”—someone on whom [they] can vent [their] affects and so procure the anesthesia necessary to ease the pain of injury. The motivation behind ressentiment, according to Nietzsche, is the desire “to deaden, by means of a more violent emotion of any kind, a tormenting, secret pain that is becoming unendurable, and to drive it out of consciousness at least for the moment: for that one requires an affect, as savage an affect as possible, and, in order to excite that, any pretext at all.”20 In its contemporary manifestation, Wendy Brown argues that ressentiment acts as the “righteous critique of power from the perspective of the injured,” which “delimits a specific site of blame for suffering by constituting sovereign subjects and events as responsible for the ‘injury’ of social subordination.” Identities are fixed in an economy of perpetrator and victim, in which revenge, rather than power or emancipation, is sought for the injured, making the perpetrator hurt as the sufferer does.”

Such a concept is useful for understanding why an ethics of absolute responsibility to the other appeals to the victimized. Brown remarks that, for Nietzsche, the source of the triumph of a morality rooted in ressentiment is the denial that it has any access to power or contains a will to power. Politicized identities arise as both product of and reaction to this condition; the reaction is a substitute for action-an “imaginary revenge,” Nietzsche calls it. Suffering then becomes a social virtue at the same time that the sufferer attempts to displace [their] suffering onto another. The identity created by ressentiment, Brown explains, becomes invested in its own subjection not only through its discovery of someone to blame, and a new recognition and revaluation of that subjection, but also through the satisfaction of revenge.”

The outcome of feminism's attraction to theories of difference and otherness is thus deeply contentious. First, we witness the further reification of the very oppositions in question and a simple reversal of the focus from the same to the other. This observation is not new and has been made by many critics of feminism, but it seems to have made no serious impact on mainstream feminist scholarship or teaching practices in women's studies programs. Second, in the eagerness to rectify the mistakes of “white, middle-class, liberal, western” feminism, the other has been uncritically exalted, which has led in turn to simplistic designations of marginal, “othered” status and, ultimately, a competition for victimhood. Ultimately, this approach has led to a new moral code in which ethics is equated with the responsibility of the privileged Western woman, while moral immunity is granted to the victimized other. Ranjana Khanna describes this operation aptly when she writes that in the field of transnational feminism, the reification of the other has produced “separate ethical universes” in which the privileged experience paralyzing guilt and the neocolonized, crippling resentment. The only “overarching imperative” is that one does not comment on another's ethical context. An ethical response turns out to be a nonresponse.” Let us turn now to an exploration of this third outcome.

#### They are revolutionary tourism—testifying the reality of the hunger strikes, but profiting from the same economy of ballots as the rest of us.

Rey CHOW Modern Culture & Media @ Brown 98 *Ethics After Idealism* p. 12-13

For the practitioners of cultural studies to address these issues of power, a type of theoretical intervention that continues to critique the legitimating structures inherent in the production of knowledge is absolutely necessary, especially at a time when everything seems equivalent and we could all happily return to our own "cultures," "ethnicities," and "origins." To put it in a different way, it is precisely at the time of multiculturalism, when "culture" seems to be liberalized in the absence of metanarratives, when "culture" seems to have become a matter of "entitlement" rather than struggle, that we need to reemphasize the questions of power and underscore at every point the institutional forces that account for the continual hierarchization of cultures. Instead of simply perpetuating what Spivak terms the "revolutionary tourism" and "celebration of testimony" 31 that seem to characterize so much of what goes on under the name of cultural studies these days, it is the meticulous investigation of such legitimating structures of power that would, in the long run, give cultural studies its sustenance and integrity as a viable pedagogical practice. In the classroom, this means that students should not be told simply to reject "metadiscourses" in the belief that by turning to the "other" cultures—by turning to "culture" as the "other'' of metadiscourses—they would be able to overturn existing boundaries of knowledge production that, in fact, continue to define and dictate their own discourses. Questions of authority, and with them hegemony, representation, and right, can be dealt with adequately only if we insist on the careful analyses of texts, on responsibly engaged rather than facilely dismissive judgments, and on deconstructing the ideological assumptions in discourses of "opposition" and "resistance" as well as in discourses of mainstream power. Most of all, as a form of exercise in "cultural literacy," we need to continue to train our students to read—to read arguments on their own terms rather than discarding them perfunctorily and prematurely—not in order to find out about authors' original intent but in order to ask, "Under what circumstances would such an argument—no matter how preposterous—make sense? With what assumptions does it produce meanings? In what ways and to what extent does it legitimize certain kinds of cultures while subordinating or outlawing others?" Such are the questions of power and domination as they relate, ever asymmetrically, to the dissemination of knowledge. Oldfashioned questions of pedagogy as they are, they nonetheless demand frequent reiteration in order for cultural studies to retain its critical and political impetus in the current intellectual climate.

#### They turn the political into only the personal—appeals to personal experience replace analysis of group oppression with personal testimony. As a result, politics becomes a policing operation—those not in an identity group are denied intellectual access and those within the group who don’t conform to the aff’s terms are excluded. Over time, this strategy LIMITS politics to ONLY the personal. This devastates structural change, and turns the case—it demands that political performance assimilate to very limited norms of experience

Joan SCOTT Harold F. Linder Professor at the School of Social Science in the Institute for Advanced Study in Princeton 92 [“Multiculturalism and the Politics of Identity” *October* Summer p. 16-19]

The logic of individualism has structured the approach to multiculturalism in many ways. The call for tolerance of difference is framed in terms of respect for individual characteristics and attitudes; group differences are conceived categorically and not relationally, as distinct entities rather than interconnected structures or systems created through repeated processes of the enunciation of difference. Administrators have hired psychological consulting firms to hold diversity workshops which teach that conflict resolution is a negotation between dissatisfied individuals. Disciplinary codes that punish "hate-speech" justify prohibitions in terms of the protection of individuals from abuse by other individuals, not in terms of the protection of members of historically mistreated groups from discrimination, nor in terms of the ways language is used to construct and reproduce asymmetries of power. The language of protection, moreover, is conceptualized in terms of victimization; the way to make a claim or to justify one's protest against perceived mistreatment these days is to take on the mantle of the victim. (The so-called Men's Movement is the latest comer to this scene.) Everyone-whether an insulted minority or the perpetrator of the insult who feels he is being unjustly accused-now claims to be an equal victim before the law. Here we have not only an extreme form of individualizing, but a conception of individuals without agency. There is nothing wrong, on the face of it, with teaching individuals about how to behave decently in relation to others and about how to empathize with each other's pain. The problem is that difficult analyses of how history and social standing, privilege, and subordination are involved in personal behavior entirely drop out. Chandra Mohanty puts it this way: There has been an erosion of the politics of collectivity through the reformulation of race and difference in individualistic terms. The 1960s and '70s slogan "the personal is political" has been recrafted in the 1980s as "the political is personal." In other words, all politics is collapsed into the personal, and questions of individual behaviors, attitudes, and life-styles stand in for political analysis of the social. Individual political struggles are seen as the only relevant and legitimate form of political struggle.5 Paradoxically, individuals then generalize their perceptions and claim to speak for a whole group, but the groups are also conceived as unitary and autonomous. This individualizing, personalizing conception has also been be- hind some of the recent identity politics of minorities; indeed it gave rise to the intolerant, doctrinaire behavior that was dubbed, initially by its internal critics, "political correctness." It is particularly in the notion of "experience" that one sees this operating. In much current usage of "experience," references to structure and history are implied but not made explicit; instead, personal testimony of oppression re- places analysis, and this testimony comes to stand for the experience of the whole group. The fact of belonging to an identity group is taken as authority enough for one's speech; the direct experience of a group or culture-that is, membership in it-becomes the only test of true knowledge. The exclusionary implications of this are twofold: all those not of the group are denied even intellectual access to it, and those within the group whose experiences or interpretations do not conform to the established terms of identity must either suppress their views or drop out. An appeal to "experience" of this kind forecloses discussion and criticism and turns politics into a policing operation: the borders of identity are patrolled for signs of nonconformity; the test of membership in a group becomes less one's willingness to endorse certain principles and engage in specific political actions, less one's positioning in specific relationships of power, than one's ability to use the prescribed languages that are taken as signs that one is inherently “of” the group. That all of this isn't recognized as a highly political process that produces identities is troubling indeed, especially because it so closely mimics the politics of the powerful, naturalizing and deeming as discernably objective facts the prerequisites for inclusion in any group. Indeed, I would argue more generally that separatism, with its strong insistence on an exclusive relationship between group identity and access to specialized knowledge (the argument that only women can teach women's literature or only African-Americans can teach African-American history, for example), is a simultaneous refusal and imitation of the powerful in the present ideological context. At least in universities, the relationship between identity- group membership and access to specialized knowledge has been framed as an objection to the control by the disciplines of the terms that establish what counts as (important, mainstream, useful, collective) knowledge and what does not. This has had an enormously important critical impact, exposing the exclusions that have structured claims to universal or comprehensive knowledge. When one asks not only where the women or African-Americans are in the history curriculum (for example), but why they have been left out and what are the effects of their exclusion, one exposes the process by which difference is enunciated. But one of the complicated and contradictory effects of the implementation of programs in women's studies, African-American studies, Chicano studies, and now gay and lesbian studies is to totalize the identity that is the object of study, reiterating its binary opposition as minority (or subaltern) in relation to whatever is taken as majority or dominant.

### 1NC—Topicality

#### FIRST OFF IS TOPICALITY—

#### Our interpretation is that debate is a game which should revolve around the topic. Our interpretation is that the affirmative should defend some type of statutory or judicial restrictions on the war powers authority of the President of the U.S. in one or more of the following areas: targeted killing, indefinite detention, offensive cyber operations, or introduction of armed forces into hostilities.

#### “USFG should” means they should defend topical action

Jon M. ERICSON, Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., 3 [*The Debater’s Guide*, Third Edition, p. 4]

The Proposition of Policy: Urging Future Action

In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow should in the should-verb combination. For example, should adopt here means to put a program or policy into action though governmental means. 4. A specification of directions or a limitation of the action desired. The phrase free trade, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

#### They don’t meet statutory restriction

KAISER 80—the Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine nonstatutory controls available to the Congress:

1. legislative, oversight, investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement;

3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation;

4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and

5. direct contact between a congressional office and the agency or office in question.

Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3

It is impossible, in a limited space, to provide a comprehensive and exhaustive listing of congressional actions that override, have the effect of overturning, or prevent the promulgation of administrative rules. Consequently, this report concentrates upon the more direct statutory devices, although it also encompasses committee reports accompanying bills, the one nonstatutory instrument that is frequently most authoritatively connected with the final legislative product. The statutory mechanisms surveyed here cross a wide spectrum of possible congressional action:

1. single-purpose provisions to overturn or preempt a specific rule;

2. alterations in program authority that remove jurisdiction from an agency;

3. agency authorization and appropriation limitations;

4. inter-agency consultation requirements; and

5. congressional prior notification provisions.

#### Judicial means the court

WEST’S LAW 08 [West's Encyclopedia of American Law, edition 2. http://legal-dictionary.thefreedictionary.com/judicial]

Relating to the courts or belonging to the office of a judge; a term pertaining to the administration of justice, the courts, or a judge, as in judicial power.

A judicial act involves an exercise of discretion or an unbiased decision by a court or judge, as opposed to a ministerial, clerical, or routine procedure. A judicial act affects the rights of the parties or property brought before the court. It is the interpretation and application of the law to a particular set of facts contested by litigants in a court of law, resulting from discretion and based upon an evaluation of the evidence presented at a hearing.

Judicial connotes the power to punish, sentence, and resolve conflicts.

#### Our interpretation is best because it’s key to preserve *productive* debate—

#### Modest predictability of the resolution is worth potential substantive tradeoff. Topicality creates space for relevant debate.

Toni M. MASSARO, Professor of Law, University of Florida, 89 [August, 1989, “Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds?” *Michigan Law Review*, 87 Mich. L. Rev. 2099, Lexis]

Yet despite their acknowledgment that some ordering and rules are necessary, empathy proponents tend to approach the rule-of-law model as a villain. Moreover, they are hardly alone in their deep skepticism about the rule-of-law model. Most modern legal theorists question the value of procedural regularity when it denies substantive justice.52 Some even question the whole notion of justifying a legal decision by appealing to a rule of law, versus justifying the decision by reference to the facts of the case and the judges' own reason and expe-rience.53 I do not intend to enter this important jurisprudential de-bate, except to the limited extent that the "empathy" writings have suggested that the rule-of-law chills judges' empathic reactions. In this regard, I have several observations.

My first thought is that the rule-of-law model is only a model. If the term means absolute separation of legal decision and "politics," then it surely is both unrealistic and undesirable.54 But our actual statutory and decisional "rules" rarely mandate a particular (unempathetic) response. Most of our rules are fairly open-ended**. "Relevance,"** "the best interests of the child," "undue hardship," "negligence," or "freedom of speech" - to name only a few legal concepts - hardly admit of precise definition or consistent, predictable application. Rather, they represent a weaker, but still constraining sense of the rule-of-law model. Most rules are **guidelines** that **establish** spheres of **relevant** **conversation**, **not** **mathematical** **formulas**.

Moreover, legal training in a common law system emphasizes the indeterminate nature of rules and the significance of even subtle variations in facts. Our legal tradition stresses an inductive method of discovering legal principles. We are taught to distinguish different "stories," to arrive at "law" through experience with many stories, and to revise that law as future experience requires. Much of the effort of most first-year law professors is, I believe, devoted to debunking popular lay myths about "law" as clean-cut answers, and to illuminate law as a dynamic body of policy determinations constrained by certain guiding principles.55

As a practical matter, therefore, our rules often are ambiguous and fluid standards that offersubstantial room for varying interpretations. The interpreter, usually a judge, may consult several sources to aid in decisionmaking. One important source necessarily will be the judge's own experiences -including the experiences that seem to determine a person's empathic capacity. In fact, much ink has been spilled to illuminate that our stated "rules" often do not dictate or explain our legal results. Some writers even have argued that a rule of law may be, at times, nothing more than a post hoc rationalization or attempted legitimization of results that may be better explained by extralegal (including, but not necessarily limited to, emotional) responses to the facts, the litigants, or the litigants' lawyers,56 all of which may go un-stated. The opportunity for contextual and empathic decisionmaking therefore already is very much a part of our adjudicatory law, despite our commitment to the rule-of-law ideal.

Even when law is clear and relatively inflexible, however, it is not necessarily "unempathetic." The assumed antagonism of legality and empathy is belied by our experience in rape cases, to take one important example. In the past, judges construed the general, open-ended standard of "relevance" to include evidence about the alleged victim's prior sexual conduct, regardless of whether the conduct involved the defendant.57 The solution to this "empathy gap" was legislative action to make the law more specific - more formalized. Rape shield statutes were enacted that controlled judicial discretion and specifically defined relevance to exclude the prior sexual history of the woman, except in limited, justifiable situations.58 In this case, one can make a persuasive argument not only that the rule-of-law model does explain these later rulings, but also that obedience to that model resulted in a triumph for the human voice of the rape survivor. Without the rule, some judges likely would have continued to respond to other inclinations, and admit this testimony about rape survivors. The example thus shows that radical rule skepticism is inconsistent with at least some evidence of actual judicial behavior. It also suggests that the principle of legality is potentially most critical for people who are least understood by the decisionmakers - in this example, women - and hence most vulnerable to unempathetic ad hoc rulings.

A final observation is that the principle of legality reflects a deeply ingrained, perhaps inescapable, cultural instinct. We value some procedural regularity - "law for law's sake" - because it lends stasis and structure to our often chaotic lives. Even within our most intimate relationships, we both establish "rules," and expect the other party to follow them.59 Breach of these unspoken agreements can destroy the relationship and hurt us deeply, regardless of the wisdom or "substantive fairness" of a particular rule. Our agreements create expectations, and their consistent application fulfills the expectations. The modest predictability that this sort of "formalism" provides actually **may encourage human relationships**.60

#### A limited topic of discussion that provides for equitable ground is key to productive inculcation of decision-making and advocacy skills in every and all facets of life—even if their position is contestable that’s distinct from it being valuably debatable. Our interpretation provides room for flexibility, creativity, and innovation, but targets the discussion to avoid mere statements of fact

Steinberg and Freeley 8—\*David L. Steinberg, a lecturer in Communication Studies at the University of Miami, holds a Master's Degree in Communication from The University of Tennessee and has completed significant post-graduate work in Communication Studies, Education, and Human Resource Development from The Pennsylvania State University and from Florida International University. \*\*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law [February 13, 2008, *Argumentation and Debate: Critical Thinking for Reasoned Decision Making*, Twelfth Edition, Wadsworth Publishing, pg. 43-45]

Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a fact or value or policy, there is no need for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate “Resolved: That two plus two equals four,” because there is simply no controversy about this statement. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate. In addition, debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly. Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007.

Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms.” That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as “We ought to do something about this” or, worse, “It’s too complicated a problem to deal with.” Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements “Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved: That the state of Florida should adopt a school voucher program” more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference.

I. DEFINING THE CONTROVERSY

To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about “homelessness” or “abortion” or “crime” or “global warming” we are likely to have an interesting discussion but not to establish profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose.

Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does “effectiveness” mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

#### Independently, limits are a voting issue—we don’t need to win an external impact other than their interpretation makes debate an unending nightmare

Harris 13—Scott Harris, Ph.D Communications, Professor at Kansas, Ed Lee’s idol, better than Nick at basketball [April 5, 2013, “This Ballot,” CEDA Forums, http://www.cedadebate.org/forum/index.php?topic=4762.0]

I understand that there has been some criticism of Northwestern’s strategy in this debate round. This criticism is premised on the idea that they ran framework instead of engaging Emporia’s argument about home and the Wiz. I think this criticism is unfair. Northwestern’s framework argument did engage Emporia’s argument. Emporia said that you should vote for the team that performatively and methodologically made debate a home. Northwestern’s argument directly clashed with that contention. My problem in this debate was with aspects of the execution of the argument rather than with the strategy itself. It has always made me angry in debates when people have treated topicality as if it were a less important argument than other arguments in debate. Topicality is a real argument. It is a researched strategy. It is an argument that challenges many affirmatives. The fact that other arguments could be run in a debate or are run in a debate does not make topicality somehow a less important argument. In reality, for many of you that go on to law school you will spend much of your life running topicality arguments because you will find that words in the law matter. The rest of us will experience the ways that word choices matter in contracts, in leases, in writing laws and in many aspects of our lives. Kansas ran an affirmative a few years ago about how the location of a comma in a law led a couple of districts to misinterpret the law into allowing individuals to be incarcerated in jail for two days without having any formal charges filed against them. For those individuals the location of the comma in the law had major consequences. Debates about words are not insignificant. Debates about what kinds of arguments we should or should not be making in debates are not insignificant either. The limits debate is an argument that has real pragmatic consequences. I found myself earlier this year judging Harvard’s eco-pedagogy aff and thought to myself—I could stay up tonight and put a strategy together on eco-pedagogy, but then I thought to myself—why should I have to? Yes, I could put together a strategy against any random argument somebody makes employing an energy metaphor but the reality is there are only so many nights to stay up all night researching. I would like to actually spend time playing catch with my children occasionally or maybe even read a book or go to a movie or spend some time with my wife. A world where there are an infinite number of affirmatives is a world where the demand to have a specific strategy and not run framework is a world that says this community doesn’t care whether its participants have a life or do well in school or spend time with their families. I know there is a new call abounding for interpreting this NDT as a mandate for broader more diverse topics. The reality is that will create more work to prepare for the teams that choose to debate the topic but will have little to no effect on the teams that refuse to debate the topic. Broader topics that do not require positive government action or are bidirectional will not make teams that won’t debate the topic choose to debate the topic. I think that is a con job. I am not opposed to broader topics necessarily. I tend to like the way high school topics are written more than the way college topics are written. I just think people who take the meaning of the outcome of this NDT as proof that we need to make it so people get to talk about anything they want to talk about without having to debate against topicality or framework arguments are interested in constructing a world that might make debate an unending nightmare and not a very good home in which to live. Limits, to me, are a real impact because I feel their impact in my everyday existence.

#### A topical version of the aff is to have the USFG end the forced feeding procedures at Guantanamo Bay and other CIA black sites or to prohibit indefinite detention altogether

#### This isn’t an argument which attempts to confine their *style* or method of presentation. It is a merely an argument about *content*.

#### This isn’t an attempt at exclusion—topicality isn’t an attempt to prevent their speech act nor is it an attempt to bar the affirmative team from participating in debate. Just because we exclude a particular affirmative with our interpretation doesn’t mean we exclude the affirmative team from debate. Every debater gets the same amount of speech and cross ex time. Everyone has the time to be heard within the debate round.

#### Our argument is a *deliberative* strategy to reach consensus about the best way to debate. Our argument is not that “the aff has violated a rule and are not allowed to debate this way”—instead we say “we think the model of debate you are proposing is not productive and a model that privileges predictable advocacies would create superior debate.” We then engage in a process of debate in order to decide whether the affirmative’s or negative’s version of debate would be better.

#### Advocacy of legal reform is possible in the context of anti-subordination politics. Complete rejection of institutional logic of legal reform crushes anti-supremacy politics.

Kimberle CRENSHAW Law @ UCLA 88 [RACE, REFORM, AND RETRENCHMENT: TRANSFORMATION AND LEGITIMATION IN ANTIDISCRIMINATION LAW 101 Harv. L. Rev. 1331 L/N]

Questioning the Transformative View: Some Doubts About Trashing

The Critics' product is of limited utility to Blacks in its present form. The implications for Blacks of trashing liberal legal ideology are troubling, even though it may be proper to assail belief structures that obscure liberating possibilities. Trashing legal ideology seems to tell us repeatedly what has already been established -- that legal discourse is unstable and relatively indeterminate. Furthermore, trashing offers no idea of how to avoid the negative consequences of engaging in reformist discourse or how to work around such consequences. Even if we imagine the wrong world when we think in terms of legal discourse, we must nevertheless exist in a present world where legal protection has at times been a blessing -- albeit a mixed one. The fundamental problem is that, although Critics criticize law because it functions to legitimate existing institutional arrangements, it is precisely this legitimating function that has made law receptive to certain demands in this area. The Critical emphasis on deconstruction as the vehicle for liberation leads to the conclusion that engaging in legal discourse should be avoided because it reinforces not only the discourse itself but also the society and the world that it embodies. Yet Critics offer little beyond this observation. Their focus on delegitimating rights rhetoric seems to suggest that, once rights rhetoric has been discarded, there exists a more productive strategy for change, one which does not reinforce existing patterns of domination. Unfortunately, no such strategy has yet been articulated, and it is difficult to imagine that racial minorities will ever be able to discover one. As Frances Fox Piven and Richard Cloward point out in their [\*1367] excellent account of the civil rights movement, popular struggles are a reflection of institutionally determined logic and a challenge to that logic. 137 People can only demand change in ways that reflect the logic of the institutions that they are challenging. 138 Demands for change that do not reflect the institutional logic -- that is, demands that do not engage and subsequently reinforce the dominant ideology -- will probably be ineffective. 139 The possibility for ideological change is created through the very process of legitimation, which is triggered by crisis. Powerless people can sometimes trigger such a crisis by challenging an institution internally, that is, by using its own logic against it. 140 Such crisis occurs when powerless people force open and politicize a contradiction between the dominant ideology and their reality. The political consequences [\*1368] of maintaining the contradictions may sometimes force an adjustment -- an attempt to close the gap or to make things appear fair. 141 Yet, because the adjustment is triggered by the political consequences of the contradiction, circumstances will be adjusted only to the extent necessary to close the apparent contradiction.

This approach to understanding legitimation and change is applicable to the civil rights movement. Because Blacks were challenging their exclusion from political society, the only claims that were likely to achieve recognition were those that reflected American society's institutional logic: legal rights ideology. Articulating their formal demands through legal rights ideology, civil rights protestors exposed a series of contradictions -- the most important being the promised privileges of American citizenship and the practice of absolute racial subordination. Rather than using the contradictions to suggest that American citizenship was itself illegitimate or false, civil rights protestors proceeded as if American citizenship were real, and demanded to exercise the “rights” that citizenship entailed. By seeking to restructure reality to reflect American mythology, Blacks relied upon and ultimately benefited from politically inspired efforts to resolve the contradictions by granting formal rights. Although it is the need to maintain legitimacy that presents powerless groups with the opportunity to wrest concessions from the dominant order, it is the very accomplishment of legitimacy that forecloses greater possibilities. In sum, the potential for change is both created and limited by legitimation.

### Case

#### Restricting detention creates a perverse incentive for drone use—that’s worse and flips any legitimacy advantage

Gartenstein-Ross 12—Daveed Gartenstein-Ross, J.D. from NYU School of Law, is the Director of the Center for the Study of Terrorist Radicalization at the Foundation for Defense of Democracies, a Washington-based think tank. He frequently consults on counter-terrorism for various government agencies as well as the private sector [Dec 4 2012, “Gitmo's Troubling Afterlife: The Global Consequences of U.S. Detention Policy,” http://www.theatlantic.com/international/archive/2012/12/gitmos-troubling-afterlife-the-global-consequences-of-us-detention-policy/265862/]

One option, of course, is ending preventive detention entirely, which is favored by many of Obama's critics on the left. But that carries second-order consequences of its own, since al Qaeda has not ended its fight against the United States, nor is the broader problem of violent non-state actors going to disappear. If the U.S. doesn't employ preventive detention, doesn't this create a perverse incentive for killing rather than capturing the opponent? As Wittes writes, "The increasing prevalence of kill operations rather than captures is probably not altogether unrelated to the fundamental change in the incentive structure facing our fighters and covert operatives."

Moreover, if the U.S. tries to wash its hands of preventive detention, detainees will almost certainly end up in worse conditions as a result. The idea has seemingly taken hold that because detention of violent non-state actors by Western governments is unjustifiable and immoral, "local" detention is preferable. So, for example, the United States supported recent military efforts by African Union, Somali, and Ke

nyan forces to push back the al Qaeda-aligned Shabaab militant group in southern Somalia. The U.S. did not take the lead in detaining enemy fighters, and instead its Somali allies did so. But when one compares, say, detention conditions in Somalia to those in Gitmo, the latter is far more humane. If the U.S. and other Western countries eschew detention when fighting violent non-state actors, somebody is going to have to do it, and that alternative is almost certainly going to be worse for the detainees themselves.

What these second-order consequences point to is the fact that reform of U.S. detention policy is more vital than moving detainees to other facilities. William Lietzau, the deputy assistant secretary of defense for rule of law and detainee policy, has told me that the detention of violent non-state actors is an unsettled area of law. To Lietzau, defined and developed rules govern the prosecution of criminals, while the Geneva Conventions govern detention of privileged belligerents under the law of war. But for unprivileged belligerents, such as violent non-state actors, the applicable law is largely undefined. Lietzau has even designed a chart, which has become famous among his colleagues, illustrating the law's lack of development.

This is not to say that moving detainees from Guantánamo to the continental United States is necessarily a bad idea. One could argue that removing that symbol is important. Further, in the long run, moving the detainees may actually save money, since everything at Gitmo, from food to construction materials, must be imported at high cost. But the location of the detention does not address any substantive concerns.

Though it will not be easy, working with partners like the International Committee of the Red Cross to forge a better set of principles and procedures governing the detention of unprivileged belligerents is far more important than moving the Gitmo detainees elsewhere. Put simply, violent non-state actors will continue to challenge the nation-state, so nation-states need a way to deal with detention in this context. Our current policy of pretending that we have moved past noncriminal detention all but ensures we will be caught flat-footed the next time such detention is necessary in a large scale, and thus that the problems inherent to detaining unprivileged belligerents will have gone unaddressed.

#### UQ goes our way and TK = worse than ID

Anderson 13—Kenneth Anderson is professor of law at Washington College of Law, American University, visiting professor at the University of Virginia School of Law [June 13, 2013, “Capture Over Kill? – The President’s Counterterrorism Speech and the Detention Conundrum,” Hoover Institution, http://www.advancingafreesociety.org/the-briefing/capture-over-kill-the-presidents-counterterrorism-speech-and-the-detention-conundrum/]

President Obama’s May 23 speech on counterterrorism policy at the National Defense University declared that the U.S. government prefers to capture terrorist suspects, where feasible, rather than kill them with drone strikes. The president (and the White House Fact Sheet on drone warfare policies that accompanied his speech) was addressing a widespread criticism made from the beginning of the Obama administration’s first term. Having announced in advance that Guantanamo was to be closed — and with Congress having cut off nearly completely the ability to bring detainees captured abroad into the United States (whether for detention or trial) — the Obama administration found itself with no politically acceptable location for detention. It therefore appeared to have a preference for killing terrorist adversaries with drone strikes.

The administration has been struggling for several years to articulate a response to this perception. It has been hampered by official secrecy around the drone programs, as well as by its own failure to challenge critics’ implicit assumption that there is a moral, perhaps even legal, obligation to seek capture over kill. The administration seems reluctant to explain clearly that those targeted are already in the legal category of being subject to lethal force as a first — not second or last — resort. When it comes to deciding whether to kill or to capture these people, having a place to detain them is legally and morally neither here nor there///

; they are in fact lawful targets for lethal force in an armed conflict, even without evaluation of imminent threat or feasibility of capture, without being given any warning or option of surrender, and regardless of the available options for detention or any other related considerations.

Criticism of the presumed kill-over-capture preference takes one form on the right and another on the left. For conservative critics — particularly former Bush administration officials such as John Yoo — the issues are threefold. One is the hypocrisy of what conservative critics see as a draconian use of force by an administration that is supposedly morally purer than its predecessor yet prefers kill over capture simply because it means not paying the political price of accepting the continued utility of Guantanamo. In this view, the Bush administration was more humanitarian because it sought to capture suspects rather than kill them outright, even if it meant detaining them indefinitely outside of the criminal justice system. A second issue is the assumed loss of valuable intelligence that live suspects could provide. At the same time, Yoo and other conservative critics also argue that it is a mistake for the administration to concede that it prefers capture over kill, because eschewing the full scope of targeting authority on political grounds weakens the legal claim that this is an armed conflict like any other.

For the domestic and international left, by contrast, the issue is that there is a moral obligation and indeed (drawing on human rights law) a legal requirement to seek capture over kill in a sort of parsimony of force. This line of reasoning has the potential to become a means of drawing the judiciary into reviewing lethal targeting decisions; if detainees captured abroad and held at Guantanamo are permitted habeas review of the decision to detain them, surely there is an even greater requirement of habeas or judicial review prior to the decision to kill, rather than capture, them?

## \*\*\* 2NC

### AT: You Force Feed

#### Their offense presupposes that we MANDATE consensus. The deliberative benefits of our framework consist of creating a forum for reasoned expression where common communication is possible.

Gürsözlü 9 (Fuat, Dept. Phil. – Binghamton U., Journal of Political Philosophy, “Debate: Agonism and Deliberation— Recognizing the Difference\*”, 17:3)

In the second and third sections of his article, knops tries to refute mouffe's claim that the rational consensus achieved within a sphere free of power is not only a practical impossibility but also a conceptual impossibility. He does this by arguing how the sources Mouffe utilizes to make her point, in this case Wittgenstein and Derrida, do not necessarily preclude rational consensus. After explaining how Habermas' version of a deliberative theory of reasoning that models communicative reasoning is compatible to Wittgensteinian theory of language, he makes the claim that "deliberation, and rational consensus, can be seen as agonistic", since the understandings reached through deliberation or a Wittgensteinian process of explanation and language learning "are partial and defeasible, formed from an encounter with difference."25 At this point I turn to Patchen Markell's "Contesting Consensus: Rereading Habermas On the Public Sphere". In this article, Markell advances a similar claim to that of Knops. He points out that habermas' model of the public sphere and discursive politics does not only tolerate agonistic political action but also requires it.26 In doing so, Markell repeats the same hegemonic pattern that Knops does by treating agonistic politics as a corrective to the deliberative approach that helps him reveal the full potential of deliberative politics. However, unlike knops' attempt to assimilate agonistic politics to the deliberative approach, markell takes a more reconciliatory approach by first reinterpreting one of the core elements of Habermas's theory, and second by illustrating how his interpretation of habermas can accommodate agonistic political action. Markell points out that the highly criticized aspect of habermas' public sphere theory—its emphasis on consensus—applies only if the public sphere is "conceived as a space of dialogue among citizens in which all speech is governed by the ultimate telos of arriving at consensus." For critics of Habermas, Markell indicates, this understanding of politics—since it aims at consensus—delegitimizes and discourages disruptive speech which challenges agreements and aims to "reintroduce a plurality of opinions, or to give voice to perspectives that cannot be acknowledged within the rules of discourse that govern a given public." however, Markell argues, habermas' communicative action makes it clear that what is important within the practical discourse is not achieving consensus, rather orientation towards agreement refers to "foreswearing of the mechanisms of coercion and influence—a foreswearing of perlocution—in the pursuit of one's goals and a corresponding commitment to provide reasons for one's claims if they are challenged." So, Markell claims, although Habermas makes a strong normative claim about the shape the process of discussion is supposed to take, he does not make a strong phenomenological claim about the possibility of agreement itself. On this reading of Habermas, agreement may or may not be reached, but what is important is the condition under which the discourse takes place. As such, Markell concludes, Habermas' theory of the public sphere does not lead to "the suppression of agonistic and contestatory speech and action in the name of consensus."27

### AT: Advocating Rez = Unethical

#### The argument that being topical is structurally unfair for them is a self-serving assertion used to sidestep clash—critiquing any part of the resolution, like the FG, to legitimize avoiding topical action gets co-opted by the right for the opposite purpose.

TALISSE 5— Robert, philosophy professor at Vanderbilt [“Deliberativist responses to activist challenges,” *Philosophy & Social Criticism*, 31.4]

\*\*\*gendered language in this article refers to arguments made by two specific individuals in an article by Iris Young

My call for a more detailed articulation of the second activist challenge may be met with the radical claim that I have begged the question. It may be said that my analysis of the activist’s challenge and my request for a more rigorous argument presume what the activist denies, namely, that arguments and reasons operate independently of ideology. Here the activist might begin to think that he made a mistake in agreeing to engage in a discussion with a deliberativist—his position throughout the debate being that one should decline to engage in argument with one’s opponents! He may say that of course activism seems lacking to a deliberativist, for the deliberativist measures the strength of a view according to her own standards. But the activist rejects those standards, claiming that they are appropriate only for seminar rooms and faculty meetings, not for real-world politics. Consequently the activist may say that by agreeing to enter into a discussion with the deliberativist, he had unwittingly abandoned a crucial element of his position. He may conclude that the consistent activist avoids arguing altogether, and communicates only with his comrades. Here the discussion ends.

However, the deliberativist has a further consideration to raise as his discursive partner departs for the next rally or street demonstration. The foregoing debate had presumed that there is but one kind of activist and but one set of policy objectives that activists may endorse. Yet Young’s activist is opposed not only by deliberative democrats, but also by persons who also call themselves ‘activists’ and who are committed to a set of policy objectives quite different from those endorsed by this one activist. Once these opponents are introduced into the mix, the stance of Young’s activist becomes more evidently problematic, even by his own standards.

To explain: although Young’s discussion associates the activist always with politically progressive causes, such as the abolition of the World Trade Organization (109), the expansion of healthcare and welfare programs (113), and certain forms of environmentalism (117), not all activists are progressive in this sense. Activists on the extreme and racist Right claim also to be fighting for justice, fairness, and liberation. They contend that existing processes and institutions are ideologically hegemonic and distorting. Accordingly, they reject the deliberative ideal on the same grounds as Young’s activist. They advocate a program of political action that operates outside of prevailing structures, disrupting their operations and challenging their legitimacy. They claim that such action aims to enlighten, inform, provoke, and excite persons they see as complacent, naïve, excluded, and ignorant. Of course, these activists vehemently oppose the policies endorsed by Young’s activist; they argue that justice requires activism that promotes objectives such as national purity, the disenfranchisement of Jews, racial segregation, and white supremacy. More importantly, they see Young’s activist’s vocabulary of ‘inclusion’, ‘structural inequality’, ‘institutionalized power’, as fully in line with what they claim is a hegemonic ideology that currently dominates and systematically distorts our political discourses.21

The point here is not to imply that Young’s activist is no better than the racist activist. The point rather is that Young’s activist’s arguments are, in fact, adopted by activists of different stripes and put in the service of a wide range of policy objectives, each claiming to be just, liberatory, and properly inclusive.22 In light of this, there is a question the activist must confront. How should he deal with those who share his views about the proper means for bringing about a more just society, but promote a set of ends that he opposes?

It seems that Young’s activist has no way to deal with opposing activist programs except to fight them or, if fighting is strategically unsound or otherwise problematic, to accept a Hobbesian truce. This might not seem an unacceptable response in the case of racists; however, the question can be raised in the case of any less extreme but nonetheless opposed activist program, including different styles of politically progressive activism. Hence the deliberativist raises her earlier suspicions that, in practice, activism entails a politics based upon interestbased power struggles amongst adversarial factions.

#### Complete rejection of institutional logic of civil society crushes anti-white supremacy politics.

Kimberle CRENSHAW Law @ UCLA 88 [RACE, REFORM, AND RETRENCHMENT: TRANSFORMATION AND LEGITIMATION IN ANTIDISCRIMINATION LAW 101 Harv. L. Rev. 1331 L/N]

### 2NC—Fairness O/W Edu

#### Fairness outweighs—debate is played for its own sake—fairness outweigh all other concerns.

Villa 96—Dana Villa Political Theory @ UC Santa Barbara [*Arendt and Heidegger: the Fate of the Political* p. 37]

If political action is to be valued for its own sake, then the content of political action must be politics “in the sense that political action is talk about politics.” The circularity of this formulation, given by George Kateb, is unavoidable. It helps if we use an analogy that Kateb proposes, the analogy between such a purely political politics and a game. “A game,” writes Kateb, “is not ‘about’ anything outside itself, it is its own sufficient world…the content of any game is itself.” What matters in a game is the play itself, and the **quality of this play** is **utterly** **dependent** upon the **willingness** and ability of the **players** to **enter the “world” of the game**. The Arendtian conception of politics is one in which the spirit animating the “play” (the sharing of words and deeds) comes **before all else**—before personal concerns, groups, interests, and even moral claims. If allowed to dominate the “game,” these elements detracts from the play and from the performance of action. A good game happens only when the players submit themselves to its spirit and **do not allow subjective or external motives to dictate the play**. A good game, like genuine politics, is played for its own sake.

### Conditionality

#### Second, *Inquisition politics*—their version of pedagogy privileges one particular vision and says anyone who disagrees or thinks critically from different perspectives can go to hell—this does violence to indigenous people who don’t fit cleanly in their totalizing descriptions of the world

Brown 96 [Wendy, Co-Director of the Center for Cultural Studies at the University of California, Santa Cruz, Constitutions and 'Survivor Stories': In the 'folds of our own discourse' The Pleasures and Freedoms of Silence, 3 U Chi L Sch Roundtable 185]

If, taken together, the two passages from Foucault we have been considering call feminists to account in our compulsion to put everything about women into discourse, they do not yet exhaust the phenomenon of being ensnared 'in the folds of our own discourses.' For if the problem I have been discussing is easy enough to see--indeed, largely familiar to those who track techniques of co-optation-- at the level of legal and bureaucratic discourse, it is altogether more disquieting when it takes the form of regulatory discourse in our own sub- and counter-cultures of resistance . . . when confessing injury becomes that which attaches us to the injury, paralyzes us within it, and prevents us from seeking or even desiring a status other than injured. In an age of social identification through attributes marked as culturally significant--gender, race, sexuality, and so forth--confessional discourse, with its truth-bearing status in a post-epistemological universe, not only regulates the confessor in the name of freeing her as Foucault described that logic, but extends beyond the confessing individual to constitute a regulatory truth about the identity group. Confessed truths are assembled and deployed as "knowledge" about the group. This phenomenon would seem to undergird a range of recurring troubles in feminism, from the "real woman" rejoinder to post-structuralist deconstructions of her, to totalizing descriptions of women's experience that are the inadvertent effects of various kinds of survivor stories. Thus, for example, the porn star who feels miserably exploited, violated and humiliated in her work invariably monopolizes the truth about sex work; as the girl with math anxieties constitutes the truth about women and math; as eating disor- ders have become the truth about women and food; as sexual abuse and viola- tion occupy the knowledge terrain of women and sexuality. In other words, even as feminism aims to affirm diversity among women and women's experiences, confession as the site of production of truth and its convergence with feminist suspicion and deauthorization of truth from other sources tends to reinstate a unified discourse in which the story of greatest suffering becomes the true story of woman. (I think this constitutes part of the rhetorical power of MacKinnon's work; analytically, the epistemological superiority of confes- sion substitutes for the older, largely discredited charge of false consciousness). Thus, the adult who does not suffer from her or his childhood sexual experi- ence, the lesbian who does not feel shame, the woman of color who does not primarily or "correctly" identify with her marking as such--these figures are excluded as bonafide members of the categories which also claim them. Their status within these discourses is that of being "in denial," "passing" or being a "race traitor." This is the norm-making process in feminist traditions of "breaking silence" which, ironically, silence and exclude the very women these traditions mean to empower. (Is it surprising, when we think in this vein, that there is so little feminist writing on heterosexual pleasure?)

## \*\*\* 1NR

### Overview

#### The only way to prevent endless violence between the victim and perpetuator is to reframe the conflict. Our goal shouldn’t be to propose plans for perfect, peaceful coexistence—that’s impossible. Rather, we must focus on shared responsibility for the community that we both inhabit whether we like it or not. Their vision of dealing with inevitable difference means that violence and resentment are inevitable—every round will become one in which debaters, regardless of privilege, will demand redress for certain injustices, and you as the judge will be forced to be the arbiter—is that really a bearable community we can live in?

Diane ENNS, Associate Professor of Philosophy at McMaster University, 12 [*The Violence of Victimhood*, Penn State Press, pg. 11-14]

In chapter 1 I explore an ideology prominent in the “emancipatory” discourses of the North American academy Scholarly interest in “the other” on the part of critical theorists, feminists, and antiracist scholars concerned with the legacy of colonialism, imperialism, and patriarchy has had an enormous impact on how we View the condition and status of the victim. The “post” discourses—postmodernism, poststructuralism, postcolonialism—are in large part responsible for rightly drawing attention to “the wretched of the earth” as well as problematically venerating “the other,” a veneration that ultimately robs the subaltern (the native, woman, “those who have no part”)18 of moral agency and responsibility. While there are a number of important intellectual and political sources of this veneration, I trace it to a tradition in what has come to be known broadly as continental philosophy, which has greatly influenced and been influenced by contemporary feminist scholarship. This veneration of the other has resulted from readings—or rnisreadings—of the work of Emmanuel Levinas and Frantz Fanon, among others, rendering the other a pure victim, beyond moral and epistemic reproach—a good other. Its undesirable effects include the abdication of politics for an impotent ethics; a reticence to make moral judgments in the name of sensitivity to cultures other than one's own, both cultures rendered essentialist and immutable in their incommensurability; and an impoverished sense of justice—motivated by guilt or ressentiment, synonymous with retribution.

We are left with a bleak picture of political practice as policing and a moral judgment premised only on accepted ideological principles.19 A community of victims stand in judgment over those deemed responsible for their subordination. Justice becomes a matter of balancing the scales of suffering by making the perpetrator suffer as the victim has. Responsibility belongs solely to the perpetrator group. Yet no one has been able to establish why the view “from the margins” equips the victimized with a superior moral sensibility and power of judgment///

 that others ostensibly lack on the grounds of their privilege.

In chapter 1, then, we witness the antagonistic dynamic between essentialized categories of privileged and oppressed—characterized by an incommensurable, nonreciprocal, morally unequal relationship—that theorists of difference promote. Ironically, it is a mirror image of the antagonism, essentialisrn, and moral reproach inherent in the circumstances that reduced an individual or group to inferior status to begin with. This irony is the point of departure in chapter 2, which elaborates a theme prevalent in Mahmood Mamdani's analysis of the Rwandan genocide. Rather than privilege the view from the margins, Mamdani warns of the dangers of assuming the “worldview” of the victim, constructed as it is on the very hierarchical system politicized by the perpetrator. While a similar binary logic of victim versus perpetrator is evident in the identity politics of the West, the stakes are much higher in the context of violent conflict purported to be “ethnopolitical.” In the case of an intractable conflict like the ongoing crisis in Israel and Palestine-characterized by a severely asymmetrical power imbalance but also by the utmost conviction on both sides of a superior claim to victimhood and thus to truth, history; land, and a future state-the stakes are higher yet.

The focus of this second chapter is the troubling extent to which we often justify the violence of the victimized as a legitimate course of action, whether in the name of empowerment, self-determination, or—most often today—security. This is evident in analyses of Palestinian suicide bombing that justify killing on the basis of despair and misery, as well as in the American and Israeli governments' reliance on a paradigm of security to legitimize a brutal military occupation. Here we witness the moral capital of the victim writ large, each side of the struggle firm in its conviction that it fights a just war. The Palestinians fight to end an occupation of more than sixty years, with its systematized, normalized inequality and disenfranchisement, impassioned by the collective memory of expulsion. The Israelis fight a war against terror and anti-Semitism, impassioned by the collective memory of genocide and persecution. The asymmetry of political power and economic well-being is often ignored by supporters of the Israeli government and used to add moral currency to the Palestinians' position by those who act in solidarity with them.

Relying on the work of Frantz Fanon and Hannah Arendt to understand the nature of political violence, particularly in its emancipatory form, I conclude in this chapter that the violence of the victim is not a justifiable response to victimhood, nor is it as inevitable as we are led to believe. The unrelenting nature of violence and counterviolence, and the willful blindness to the binary logic of victim versus perpetrator, means that dissenting voices and the actions of those who do not comply are usually ignored. As in chapter 1, the view of politics here is bleak; “never again” is the mantra of a politics of death and destruction propelled by fear—or rather of a failure of politics, and a corresponding failure to take responsibility and exercise moral agency. The solutions can be found, I argue, in the work of countless individuals and groups who are not permitted the political tools necessary to make the leaps required for a viable future for all Palestinians and Israelis. Since it is the ideological framing of the conflict that blinds us to these solutions, it is our responsibility as bystanders, to engage in conceptual reframing, not to impose peace plans or political solutions ourselves but to stop preventing Israelis and Palestinians from creating them.

The third chapter elaborates the subjective or psychic effects of victimization. I seek to provide a phenomenology of victimhood based on the narratives and analyses of Jean Amery, Susan Brison, Frantz Fanon, and others who have explored the condition of victimhood and the process of recuperating a sense of self after a traumatic experience. I discuss these writers in the context of a contemporary discourse on trauma in the fields of psychology, psychoanalysis, feminism, anticolonialism, and military psychiatry An overview of the “birth of trauma” demonstrates that we have moved from recognizing injury to naturalizing it, and to a universalization of pain and suffering that trivializes the meaning of trauma, rendering indistinguishable the experiences of those who survive genocide, rape, or sexual harassment. Historicizing the experience of victimhood makes it impossible to essentialize the condition of the victim—that victims respond in diverse ways to acts of violence and violation should not be neglected—but I point to a number of features that broadly constitute what it means to be victimized.

Despite the focus in chapter 3 on the psychic pain and suffering victims experience—the alienated consciousness, dehumanization, self-enslavement, “amputation,” or shattered self—I argue that our empathic regard must not preclude judgment or the acknowledgment of responsibility for wrongdoing when we consider the violence that victims themselves perpetuate. While Fanon stresses the agency of the colonized subject in the work of reversing the alienation he suffers, Améry dwells in a kind of melancholia, valorizing what Nietzsche calls ressentiment—resentment against those who tortured him in a Nazi camp and against the German people who enabled the Nazi regime to carry out genocide.

How do we arrest the evolution of grief into grievance before further violence occurs in the name of victimhood? Brison provides an answer, demonstrating that victims can eventually forget their victimization, to some extent, through the long and painful process of narration. Raped and nearly beaten to death, Brison describes the pain of displacement and exile from her own body as well as from the human community, but she recognizes that although the self can be destroyed by others, it is also created and sustained by them. The devastating loss of security her attacker caused is mitigated over time by her acceptance that absolute control over one's life is never possible—we cannot escape our vulnerability—and by narrating the event into her past. The contrast between the reflections of Améry and Brison, however, points to the power of unconscious desires and motivations that render survival an individual matter. We are not all equal in our capacity to struggle and overcome.

The first three chapters throw into question the association of the victim with pure innocence and political incapacity or passivity, in effect accomplishing a deconstruction of the victim. They also demonstrate that this critical labor is not enough. We must do more than point out that victims and perpetrators are complex, the lines dividing them often blurry, or we are left with a perfect alibi for inaction. In chapter 4 I turn to Hannah Arendt for guidance in thinking through the provocative issue of responsibility and judgment with respect to the victim. Arendt was vilified and ostracized by her own friends, and by the Jewish community in general, for ostensibly “blaming the victim” in her controversial coverage of the Adolf Eichmann trial in 1961. But her emphasis on collective historical responsibility, as well as individual moral responsibility for the future, victims notwithstanding, neither blames victims for their own misfortunes nor detracts from the necessary judgment against the worst atrocities humans can commit. Rather, I argue, it enables us to conceive of a political future in which the seemingly inevitable transformation of victim into victimizer might be suspended.

With Arendt's help, we discover that moral judgments help us to create a world in which we want to live. Morality is not about following a moral code but about choosing with whom we want to live in proximity, and what kind of life we will share in our communities. We judge our own behavior in order to live with ourselves; we judge others in order to live among our fellow human beings and cultivate community in relative safety and trust. Accounting for our actions, acknowledging our freedom to make decisions and to act, and taking responsibility for this freedom are all inextricably linked to judgment. It is this careful discernment, derived as much from thinking, in concert with others, as from respect for others, that distinguishes judgment from the veneration described in the first chapter.