## Case

#### The war on terror has captured our conscience. We have given up all our ability to challenge scream at and attack the instutition to the flesh avatar of the state that is the president. We will give Obama and Bush anything, all of the authority they want because we fear the end of our way of life, the end of American freedom, the end of thinking we’re loved fully and eternally.

#### **This has created an endless cycle of escalation culminating in annhilation, as others will respond to this violence with violence of their own.**

#### **Prefer this impact:**

#### **SCOPE and EXPLANATORY POWER—status quo pathology dictates all foreign and domestic policy. ALL DECISIONMAKING is poisoned with racialized anxiety and messianism—every other impact is a subset—our impact occurs at the level of thought and decisionmaking and is therefore logically prior to any other.**

#### **SYSTEMIC—our impact is a description of the status quo. Prefer this to future conjectural impact—those are projections of fear and anxiety. Stopping an ongoing apocalyptic holy war should come first.**

## K

### Framework

#### Failure to embrace solidarity results in disaster--We as students and academics need to take up the mantle of solidarity for global problems—in a globalized world, this sort of academic training is essential to create the cultural factors that make successful global solidarity possible—the alternative is catastrophes that threaten our survival

Voicu, 2000 [Doctor in political sciences, (international law) of Geneva University (1968); doctor honoris causa in international law of Assumption University of Thailand (1998); alternate representative of Romania to the United Nations Security Council (1990-1991); ambassador of Romania to the Kingdom of Thailand and permanent representative to international organizations based in Bangkok (1994-1999); visiting professor in Assumption University since February 2000. *ABAC Journal Vol. 25, No. 1 (January-April, 2005, pp. 1-24)]*

Non-governmental initiatives, including those promoted at academic level may prove instrumental. For example, Asia Pacific International Solidarity Conferences (APISC) became significant events, bringing together activists from the Asia-Pacific region and around the world, giving them the opportunity to discuss and debate strategy and theory and organise real solidarity and action as part of building a global opposition to war. At long last, people can sense a new wave of movement towards stronger manifestations of academic solidarity. (54) ABAC Journal Vol. 25, No. 1 (January-April, 2005, pp. 1-24) 19 *Academic Solidarity and Peace* In political, economic, social or academic fields, in view of the existing global interdependence, “solidarity of fate” is not a matter of choice. At academic level there is sufficient common ground on which to start building solidarity of thought and action. Global interdependence should be turned to the benefit of all, or it will risk turning itself into a catastrophe. Philosophers and sociologists already warned many years ago that the choice is between solidarity of common humanity and solidarity of mutual destruction. This is a crucial challenge, while dreaming about universal peace. It is obvious that on this planet, evil, wherever it is gestated and whoever may be its intended or “collateral” victims, affects us all. Globalization itself is the source of many additional ethical challenges. Michael Lerner is appropriately quoted in this respect: “If we really want to protect ourselves, we need to create a world which no longer dehumanizes others, no longer tolerates oppression, no longer imagines that we can live our own private lives and find our own private solutions while closing our ears to the suffering of others.” As cogently observed in a relevant article, “It is not just a question of insuring ourselves against the vengeance of the disinherited”. (55) It is, indeed, a matter of survival. This basic truth seems to be understood by the diplomatic community. It might also influence the way of thinking of academics. Consequently, the dialogue between diplomats and academics should be regarded with less skepticism. There is a need for permanent dialogue as a kind of school in action for promoting cooperation and solidarity. Diplomacy is often most effective when it pursues not an incrementalist but a “maximalist” agenda. However, there is no doubt that intensive diplomacy and international conferences alone cannot make the world a safer place in a short run. Yet, with genuine political will, trust and confidence, pragmatic optimism, diplomacy can contribute in the long run to translating into reality the predictable ideal of giving visibility and tangibility to solidarity. Humankind finally shares a common destiny which is inseparable from peace. Academic solidarity, as integral part of global solidarity, can help pave the way for more successful efforts towards that crucial objective.

### 2AC

**Aesthetic criteria should be included, not a prior issue. Prioritizing the aesthetic makes it violent, not consensual.**

Martin **JAY** History @ UC Berkeley **’92** “"The Aesthetic Ideology" as Ideology; Or, What Does It Mean to Aestheticize Politics?” Cultural Critique 21 Spring p. 52-53

Another way to express the more benign implications of aes- theticizing politics in certain of its guises concerns the thorny issue ofjudgment, which takes us away from producing works of art (or their political correlates) to the problem of how we appreciate and evaluate them.22 It was, of course, in Kant's Third Critique that the link between judgment and aesthetic taste was classically forged. Aesthetic (or what he also called reflective) judgment is not cognitive (or determinant) because it does not subsume the particular under the general. Rather, itjudges particulars without presupposing universal rules or a priori principles, relying in- stead on the ability to convince others of the rightness of the evaluation. When, for example, I call a painting beautiful, I as- sume my taste is more than a personal quirk, but somehow ex- presses a judgment warranting universal assent. I imaginatively assume the point of view of the others, who would presumably share my evaluation. Aesthetic judgment thus cannot be legiti- mated by being brought under a concept or derived from a uni- versal imperative; it requires instead a kind of uncoerced consen- sus building that implies a communicative model of rationality as warranted assertability. Kant's critique of judgment has been itself criticized by those hostile to the aesthetic ideology. In The Truth in Painting, for ex- ample, Jacques Derrida claims that its dependence on the princi- ple of analogy (as opposed to induction and deduction) means it tacitly privileges an anthropocentric law-giver, who relentlessly reduces difference to sameness (117).23 Like de Man, he sees the aesthetic as thus complicitous with violence. He also claims that the very attempt to restrict aesthetic judgment to autotelic works of art necessarily fails because the boundary between the work (ergon) and the frame (parergon) is always permeable, so that it is " impossible to distinguish one form of judgment from another so categorically.

#### The ethic of RESPONSIBILITY and AFFIRMATION is the OPPOSITE of THEIR LINK STORY – the alternative is restentiment

Biskowski 95 Lawrence J. PROFESSOR OF POLITICAL SCIENCE --- assistant professor of political science, University of Georgia, “Politics versus Aesthetics: Arendt's Critiques of Nietzsche and Heidegger,” The Review of Politics, Vol. 57, No. 1, Winter, 1995

Even this great exchange of values, Arendt seems to tell us, was not so radical as is usually believed. She considers Nietzsche (together with Marx and Bergson) to be one of the great representatives of modern Lebensphilosophie?\* Dionysian joy is celebrated by Nietzsche as "temporary identification with the principle of life."39 Nietzsche's teachings suggest that people should abandon traditional ethics in favor of an unqualified affirmation of life and all that life entails, even as life continually overflows human attempts to tame and organize it. The human capacity for willing is identified with the life-principle and life itself is elevated as the highest value.40 In a manner not unlike the alleged Marxian reductions of politics and culture to economics, and life to labor and consumption, Nietzsche reduces Being to Life.41 Like Marx and Bergson, he breaks from the philosophical tradition primarily by conceptualizing life as more active and productive than consciousness or contemplation. But he also shares with them (and with the philosophical tradition itself) a fundamental misunderstanding of politics and of the human capacity for action. Nietzsche wrongly conceives of action in terms of fabrication, and his ultimate point of reference is not work, worldliness, or action but life and life's fertility.42 A central argument of The Human Condition is that Marx had glorified labor and the animal laborans in such a way that an economic or "social" preoccupation with the needs and functions of the life process replaced the unique ontological features and possibilities of action and authentic politics. Nietzsche arrives at quite different conclusions, but he works from several premises that are fundamentally similar to those of Marx. Life and the particular values he associates with life reign supreme in Nietzsche's philosophy. This can be seen, for example, in his famous warning about nihilism that living beings must be willing to draw horizons around themselves, to formulate their own truth for themselves, in order to live and grow. Truth is subsumed under, or made a function of, life: (in] Nietzsche's will to power, truth itself is understood as a function of the life process; what we call truth is those propositions without which we could not go on living. Not reason but our will to live makes truth compelling.43 And not only truth but the human capacity to will become little more than "a mere symptom of the life-instinct."44 The justification for violence also is grounded in life; violence can now be advertised as "a life-promoting force."45 But for Arendt, this position, based ultimately on a category mistake, holds disastrous implications for modern politics. "Nothing," she says, "could be theoretically more dangerous than the tradition of organic thought in political matters by which power and violence are interpreted in biological terms."46 The yearning for violence that surfaces periodically in Nietzsche, and which is often shared by other modern intellectuals and creative artists, is not the manifestation of power and will that he and they would like to imagine it, but rather an expression of ressentiment, a quite "natural reaction of those whom society has tried to cheat of their strength."47 Indeed, the will to power itself, "as the modern age from Hobbes to Nietzsche understood it in glorification or denunciation, far from being a characteristic of the strong, is, like envy and greed, among the vices of the weak, and possibly even their most dangerous one."4\*

**Suffering is not part of the human condition – rather, it is a result of specific circumstances. Even if some suffering is inevitable, there are degress**

Eagen, 2004 (jennifer, “Philisophical interests” September 9 http://home.earthlink.net/~jeagan/id3.html)

Suffering is the theme of two of my published papers, which both examine the question of how philosophy should respond to suffering. Suffering is a mode of living one's body that usually takes into account the ontic features that impact the body. Social and political events are often the cause of suffering, even if the event is painted as natural (example, famine, cancer whose causes are usually greater than just natural). Suffering is often where the body and the social-liguistic order that Foucault talks about meet. Many of the examples that Foucault talks about are examples of suffering, even though he dispassionately displays it without showing the effects of the individual consciousness. Maybe Foucault with a touch more phenomenology is what I'm after. Also, many of the cases of oppression and human rights violations that I deal with in my teaching are examples of suffering to greater or lesser degrees. One challenge that I face as I continue to try to define suffering is how to give an account of suffering and what constitutes suffering. Will the criteria be subjective or objective? Is suffering relative (say between the West and the developing world)? Can we legitimately compare the suffering of different individuals or groups? All good questions. I could argue along with Adorno that suffering is not natural nor is it a permanent feature of the human condition, but is primarily caused by social and political events and conditions. However, I might want to argue something like there are some seemingly permanent features of this social-political landscape that cause everyone to suffer, but to different degrees (e.g., gender). I'm looking forward to exploring this further.

#### Permutation – endorse the world-changing of the Aff in combination with Nietzschean life celebration. Their framework alone yields callousness and despair. The permutation is necessary to affirm freedom and life.

May, 2005 (Todd, Professor of Philosophy at Clemson University, "To change the world, to celebrate life, "Philosophy and Social Criticism. 31(5-6), p. 519-520, 527)

**To change the world and to celebrate life. This,** as the theologian Harvey Cox saw, **is the struggle within us**. **It is a struggle in which** one cannot choose sides; or better, a struggle in which **one must choose both sides.** The abandonment of one for the sake of the other can lead Only to disaster or callousness. Forsaking the celebration of life for the sake of changing the world is the path of the sad revolutionary. In his preface to Anti-Oedipus, Foucault writes that one does not have to be sad in order to be revolutionary. The matter is more urgent than that, however. One cannot be both sad and revolutionary. **Lacking a sense of the wondrous that is already here,** among us, **one who is bent upon changing the world can only** **become solemn Or bitter**. He or she is focused only on the future; the present is what is to be overcome. The vision of what is not but must come to be overwhelms all else, and the point of change itself becomes lost. The history of the left in the 20th century offers numerous examples of this, and the disaster that attends to it should be evident to all of us by now. **The alternative is surely not to shift one's allegiance to the pure celebration of life.** although there are many who have chosen this path. **It is at best blindness not to see the misery that envelops so many of our fellow humans,** to say nothing of what happens to sentient nonhuman creatures. **The attempt to jettison world-changing for an uncritical assent to** **the world as it is requires a self-deception that** I assume **would be anathema** for those of us who have studied Foucault. Indeed, it is anathema **for all of us who awaken each day to an America whose expansive boldness is matched only by an equally expansive** **disregard for those We place in harm's way**. This is the struggle, then. The one between the desire for life-celebration and the desire for world-changing. The struggle between reveling in the contingent and fragile joys that constitute our world and wresting it from its intolerability. I am sure it is a struggle that is not foreign to anyone who is reading this. I am sure as well that the stakes for choosing one side over another that I have recalled here are obvious to everyone. The question then becomes one of how to choose both sides at once. Continued… And because these experiments are practices of our bodies, and because **out bodies are encrusted in the World,** these experiments become not merely acts of political resistance but new folds in the body/world nexus. To construct new practices is to appeal to aspects or possibilities of the world that have been previously closed to us. It is to offer novel, and perhaps more tolerable, engagements in the chiasm of body and world. Thus we might say of politics what Merleau-Ponty has said of painting, that we see according to it. Here, I take it, is where the idea of freedom in Foucault lies. For Foucault, freedom is not a metaphysical condition. It does not lie in the nature of being human, nor is it a warping, an atomic swerve, in the web of causal relations in which we find ourselves. **To seek out freedom as a** **space apart from our encrustation in the world is not so much to liberate ourselves from its influence as to build our own private prison. Foucault once said: There's an optimism that consists** in saying that things couldn't be better. My optimism would consist rather **in saying that so many things can be changed, fragile as they are, bound up more with circumstances than with necessities,** more arbitrary than self-evident, **more a matter of complex, but temporary, historical circumstances than with inevitable** anthropological **constraints**... **That is where to discover our freedom**.

#### The claim that suffering is inevitable and that intervention to suffering is life-negating is nothing more than a thinly-veiled cover for mass rape and genocide – accepting their argument necessitates an unconditional acceptance of brutal atrocities in all their forms.

Kelley L. Ross, professor of philosophy at L.A. Valley College, 2003. “Friedrich Nietzsche (1844-1900)”, [\_\_http://www.friesian.com /NIETZSCH.HTM\_\_](http://www.friesian.com/NIETZSCH.HTM)

While the discussion of Existentialism treated Nietzsche as an Existentialist before his time, with the death of God producing the kind of nihilism characteristic of that movement, Nietzsche, for all his warnings about nihilism, does not in the end seem to be an actual nihilist. He is a kind of *positivist* instead -- that certain *actual* events and practices are the root of genuine value. The events and practices used by Nietzsche happen to be those of the most extreme 19th century Darwinian conception of ***nature***. This very often sounds good, since Nietzsche sees himself, and can easily impress others, as simply making a healthy affirmation of ***life***. Life for Nietzsche, however, is red in tooth and claw, and the most admirable and interesting form of life is the triumphant Darwinian predator, who in general is paradigmatic of beauty, grace, strength, intelligence, and activity, while living off of the less intelligent herds of herbivores, i.e. the dull and the bovine. In *The Genealogy of Morals*, one of Nietzsche's latest works (1887), he lays this all out with great clarity and eloquence. It is a performance that is also appalling -- and horrifying in relation to the uses to which Nietzsche's ideas were later put, for which he cannot, and would not care to, escape blame. Recent Nietzsche enthusiasts tend to ignore Nietzsche's own solution to the problems of modernity. Instead, they ironically take heart from the very [nihilism](http://www.friesian.com/rand.htm#modern) described with horror by Nietzsche. This nihilism is then used in the service of many other things that Nietzsche despised, like socialism, democracy, and the valorization of the common man. Of course, when the Left demands "true" democracy, what they really want is a political dictatorship run by themselves -- which is why Fidel Castro is still their idol. Nietzsche would not have been displeased with the naked power of a Stalin, and possibly even would have admired the cynicism of the empty Leftist rhetoric that he used to seize power. These ironies or paradoxes are discussed below. Before that, I will consider the embarrassing details of Nietzsche's own solution to nihilism. First of all, Nietzsche's racism is unmistakable. The best way to approach this is to let Nietzsche speak for himself. In the quotes that follow, I will simply offer examples from *The Genealogy of Morals* alone, as translated by Francis Golffing (in the footnotes I have been adding some passages from *Beyond Good and Evil* for comparison). The Latin *malus* ["bad"] (beside which I place *melas* [Greek for "black"]) might designate the common man as dark, especially black-haired ("hic niger est"), as the pre-Aryan settler of the Italian soil, notably distiguished from the new blond conqueror race by his color. At any rate, the Gaelic presented me with an exactly analogous case:  *fin*, as in the name Fingal, the characteristic term for nobility, eventually the good, noble, pure, originally the fair-haired as opposed to the dark, black-haired native population. The Celts, by the way, were definitely a fair-haired race; and it is a mistake to try to relate the area of dark-haired people found on ethnographic maps of Germany to Celtic bloodlines, as Virchow does. These are the last vestiges of the pre-Aryan population of Germany. (The subject races are seen to prevail once more, throughout almost all of Europe; in color, shortness of skull, perhaps also in intellectual and social instincts. Who knows whether modern democracy, the even more fashionable anarchism, and especially that preference for the *commune*, the most primitive of all social forms, which is now shared by all European socialists -- whether all these do not represent a throwback, and whether, even physiologically, the Aryan [master] race of conquerors is not doomed?) [*The Birth of Tragedy and The Genealogy of Morals*, Doubleday Anchor Books, 1956, p.164, boldface added; note the term "master" deleted in the Golffing translation; [note](http://www.friesian.com/NIETZSCH.HTM#note-1)]Here we have an unmistakable racism:  the good, noble, and blond Aryans, <http://www.friesian.com/hicks.htm>contrasted with the dark and primitive indigenes of Europe. While Nietzsche's thought is often defended as unrelated to the racism of the Nazis, there does not seem to be much difference from the evidence of this passage. One difference might be Nietzsche's characterization of the "commune" as "the most primitive of all social forms." Nazi ideology was totalitarian and "social," denigrating individualism. Nietzsche would not have gone for this -- and the small, dark Hitler is certainly no Aryan -- but then many defenders of Nietzsche these days also tend to prefer a [communitarian](http://www.friesian.com/rights.htm) democracy, which means they might have more in common with the Nazis, despite their usual anti-racism, than Nietzsche himself. This is characteristic of the confusion of contemporary politics, let alone Nietzsche apologetics. The passage above, at least, provides as much aid and comfort for the Nazis as for any other interpretation or appropriation of Nietzsche. Nietzsche's racism might be excused as typical of its age, and criticism of it anachronistic. However, the racism of [Thomas Jefferson](http://www.friesian.com/presiden.htm#3), a century earlier, involved an explicit denial that physical or intellectual differences between the races (about which Jefferson expressed no certainty) compromised the *rights* of the inferior races. To Nietzsche, however, the "subject races" have no "rights"; and domination, not to mention all the forms of "oppression" excoriated by the trendy [**Left**](http://www.friesian.com/rand.htm#modern), are positive and desirable goods. This anxiety or distemper may be due to a variety of causes. It may result from a crossing of races too dissimilar (or of classes too dissimilar. Class distinctions are always indicative of genetic and racial differences:  the European *Weltschmerz* and the pessimism of the nineteenth century were both essentially the results of an abrupt and senseless mixing of classes)... [p.267, boldface added, [note](http://www.friesian.com/NIETZSCH.HTM#note-2)] In the litany of political sins identified by the Left, "racism, classism, and homophobia" are the holy trinity -- with "classism," of course, as a codeword for the hated [capitalism](http://www.friesian.com/capit-1.htm). Here we see that for Nietzsche racism and "classism" are identical:  the "subject races" form the subject classes. This is good and noble. We also get another aspect of the matter, the "mixing" of races and classes is "senseless" and productive of the pessimism and social problems of modern society. In these terms, Nietzsche can only have approved of the Nazis laws against marriage or even sex between Aryans and *Untermenschen*. The lack of rights for the dark underclasses brings us to the principal theme of *The Genealogy of Morals*:  The morality of "good and evil" has been invented out of hatred and resentment by the defeated and subjugated races, especially the Jews. People who love Nietzsche for his celebration of creativity and his dismissal of the moralism of traditional religion, mainly meaning Christianity, usually seem to think of going "beyond good and evil" as merely legitimizing homosexuality, drugs, abortion, prostitution, pornography, and the other desiderata of progressive thinking. They don't seem to understand that Nietzsche wasn't particularly interested in things like that, but, more to the point, legitimizing rape, murder, torture, pillage, domination, and political oppression by the strong. The only honest Nietzschean graduate student I ever met frankly stated, "To be creative, you must be evil." We get something similar in the recent Sandra Bullock movie, *Murder by Numbers* [2002], where the young Nietzschean student simply says, "Freedom is crime." The story of the movie is more or less that of Leopold and Loeb, the Chicago teenagers who in 1924 murdered a young boy (Bobby Franks) to prove that they were "beyond good and evil." Leopold and Loeb understood their Nietzsche far better than most of his academic apologists. And we are the first to admit that anyone who knew these "good" ones [nobility] only as enemies would find them evil enemies indeed. For these same men who, amongst themselves, are so strictly constrained by custom, worship, ritual, gratitude, and by mutual surveillance and jealousy, who are so resourceful in consideration, tenderness, loyality, pride and friendship, when once they step outside their circle become little better than uncaged beasts of prey. Once abroad in the wilderness, they revel in the freedom from social constraint and compensate for their long confinement in the quietude of their own community. They revert to the innocence of wild animals:  we can imagine them returning from an orgy of murder, arson, rape, and torture, jubilant and at peace with themselves as though they had committed a fraternity prank -- convinced, moreover, that the poets for a long time to come will have something to sing about and to praise. Deep within all the noble races there lurks the [blond] beast of prey, bent on spoil and conquest. This hidden urge has to be satisfied from time to time, the beast let loose in the wilderness. This goes as well for the Roman, Arabian, German, Japanese nobility as for the Homeric heroes and the Scandinavian vikings. The noble races have everywhere left in their wake the catchword "barbarian." .....their utter indifference to safety and comfort, their terrible pleasure in destruction, their taste for cruelty -- all these traits are embodied by their victims in the image of the "barbarian," and "evil enemy," the Goth or the Vandal. The profound and icy suspicion which the German arouses as soon as he assumes power (we see it happening again today [i.e. [1887](http://www.friesian.com/francia.htm#second)]) harks back to the persistent horror with which Europe for many centuries witnessed the raging of the blond Teutonic [*germanischen*] beast (although all racial connection between the old Teutonic tribes [*Germanen*] and ourselves has been lost). [pp.174-175, boldface added, note the terms, "blond" and "German," deleted or altered in the Golffing translation]

#### Even if we can’t know the right course of action, taking action in what seems to be the best direction boosts personal value and provides new information and experiences which can change the world

Ammon-Wexler 2004 (Jill, Brain Researcher and Personal Excellence Mentor, “The ZEN of Taking Action”, <http://www.trainersdirect.com/resources/articles/Wexler/ZenofAction.htm>, Hemanth)

You've probably had the experience at one time or another of feeling "stuck" in your life. Of just sitting in one place -- unclear of what decision you should make. How can you move forward in life when you feel unclear about the next step you need to take? Admittedly, such a lack of clarity can cause some pretty extreme stress! It's difficult to move forward if you don't have clarity, since clarity of purpose often controls your supply of life energy. Knowing what you want generates the energy to pursue it! While not knowing drains your energy. So what can you do if you lack clarity? What are your options? If you're afraid of making the wrong choice, you can wait and hope for clarity. Or you can try to think your options through in your own mind. But the truth is, you'll never really "figure life out." In terms of "life-questions" -- life has a way of just resolving itself, with or without our conscious intervention or so-called decision-making! And even when we think we've got everything all "figured out" -- life will seldom deliver a perfect replica of our mental picture. One good way to conquer uncomfortable indecision is to simply make a choice from among your "unknowns." Whether or not you feel certain your choice is the "right" choice -- just take a small step in what seems to be the "best" direction, in spite of your doubt or confusion. There is great power in action. Movement in any direction will break you free from the "cement" of indecision -- and provide new information and experiences. Action sends ripples of energy and change out into the world. And since life is so totally unpredictable, who knows how your situation will change once you get some "action energy" into motion. You may even want to think of your life as a novel you're reading. You're only part of the way into the book -- and you really don't know what's going to happen next. How could you know? The book is still being written! The challenge you face is this: Dare you move forward in the face of uncertainty? Can you "handle" taking action without knowing whether it's the "right" action? You may feel confused or anxious, and wonder if you're making the "right" decision. But somewhere along in your "life novel" you may discover there was no "right" decision. Here's what I've learned in my own "roller coaster" version of life: If you find you've stepped onto the "wrong" path, you can always adjust your direction. And any so-called "mistakes" simply add to your personal wisdom about what doesn't work -- thus taking you closer to discovering what does work! There is great power in action! Go for it! Even if you make the wrong choice, at least you'll generate some "Zen action energy" and break free of the painful, mind-numbing cement of indecision!

#### The response to the failure of politics is to improve it---the neg is solipsistic inward-turning that dooms the possibility of reforms

Biskowski 95 Lawrence J., “Politics versus Aesthetics: Arendt's Critiques of Nietzsche and Heidegger,” The Review of Politics, Vol. 57, No. 1, Winter, 1995

One lesson Arendt gleaned from the Nazi experience and its aftermath was how easily the basic morality of a people could be reversed under the conditions of modernity—with no more difficulty than would be required "to change their table manners."94 Arendt came to the conclusion, as Canovan points out,95 that neither tradition, religion, or authority, nor metaphysics, nor even common-sense morality, could be counted on to provide effective bulwarks against such monstrosities. The perpetual flux of values possible in and sometimes characteristic of modernity means, as Max Weber suggests,96 that the irrational reality of life and the content of its possible meanings are inexhaustible. As a result, Arendt says, the groundwork of the world has begun to shift, to change and transform itself with ever-increasing rapidity from one shape into another, as though we were living and struggling with a Protean universe where everything at any moment can become almost anything else.97 Fortunately, this does not necessarily entail "the loss of the human capacity for building, preserving, and caring for a world that can survive us and remain a fit place to live in for those who come after us."98 To care for the world in this way is in large part the task of politics, at least for Arendt. This can be seen most clearly in her descriptions of the act of political founding, through which a kind of shelter for freedom and plurality may be created.99 In a sense, however, all genuinely political action partakes in some measure of this love of freedom and hence also in care for the world which makes such freedom possible.100 Arendt attempts to find a way out of the various dilemmas of modernity, including moral solipsism, instrumental rationality, and the process-imperatives of progress and economic production. But she attempts to do so while still avoiding the seductions of the aesthetic cult of the self—its ultimate self-referentiality, its abjuration of morality and moral interpretation, its turning away from the world, and its resulting political disorientation. Her success in confronting the problems of the modem condition is, of course, highly debatable; the question of her advocacy of a postmodern, aestheticized politics radically adverse to morality and moral interpretation seems much less so.

### AT: Market Place Suffering

And, by promoting this sort of reflection and thought through the act of surrender, we solve a shift in citizen and congressional opinions on the war on terror—the aff is the sort of painful self-examination that creates change

Grieder, 2004 [William Greider, a prominent political journalist and author, has been a reporter for more than 35 years for newspapers, magazines and television.. He is the author of the national bestsellers One World, Ready or Not, Secrets of the Temple and Who Will Tell The People. In the award-winning Secrets of the Temple, he offered a critique of the Federal Reserve system. Greider has also served as a correspondent for six Frontline documentaries on PBS, including "Return to Beirut," which won an Emmy in 1985. “Under the Banner ofthe‘War’ on Terror” <http://samizdat.cc/shelf/documents/2004/06.07-greider/greider.pdf>]

An important question remains for Americans to ponder: Why have most people submitted so willingly to a new political order organized around fear? Other nations have confronted terrorism of a more sustained nature without coming thoroughly un- hinged. I remember living in London briefly in the 1970s s, when IRA bombings were a frequent occurrence. Daily life continued with stiff -upper-lip reserve (police searched ladies’ handbags at restaurants, but did not pat down the gentlemen). We can only spec- ulate on answers. Was it the uniquely horrific quality of the 9/11 attacks? Or the fact that, unlike Europe, the continental United States has never been bombed? For mod- ern Americans, war’s destruction is a foreign experience, though the United States has participated in many conflicts on foreign soil. Despite the patriotic breast-beating, are we closet wimps? America’s exaggerated expressions of fear may look to others like a surprising revelation of weakness.

My own suspicion is that many Americans have enjoyed Bush’s “terror war” more than they wish to admit. Feeling scared can be oddly pleasurable, like participating in a real-life action thriller, when one is allied in imagined combat with a united country of brave patriots. The plot line is simple—good guys against satanic forces—and pushes aside doubts and ambiguities, like why exactly these people are out to get us. Does our own behavior in the world have anything to do with it? No, they resent us because we are so virtuous—kind, free, wealthy, democratic. The contest, as framed by Bush, invites Americans to indulge in a luxurious sense of self-pity—poor, powerful America, so innocent and yet so misunderstood. America’s exaggerated fear of unknown “others” is perhaps an unconscious inversion of its exaggerated claims of power.

The only way out of this fog of pretension is painful self-examination by Americans— cutting our fears down to more plausible terms and facing the complicated realities of our role in the world. The spirited opposition that arose to Bush’s war in Iraq is a good starting place, because citizens raised real questions that were brushed aside. I don’t think most Americans are interested in imperial rule, but they were grossly misled by patriotic rhetoric. Now is the time for sober, serious teach-ins that lay out the real history of power in the world, and that also explain the positive and progressive future that is possible. Once citizens have constructed a clear-eyed, dissenting version of our situation, perhaps politicians can also be liberated from exaggerated fear. The self-imposed destruc- tion that has flowed from Bush’s logic cannot be stopped until a new cast of leaders steps forward to guide the country. This transformation begins by changing Presidents.

### AT: Liberalism Bad

#### Giving up on connecting to conventional democratic institutions creates a higher level of cooptation and complacency.

**Lobel 07** (Orly Lobel, Assistant Professor of Law, University of San Diego, THE PARADOX OF EXTRALEGAL ACTIVISM: CRITICAL LEGAL CONSCIOUSNESS AND TRANSFORMATIVE POLITICS, Harvard Law Review, 2007, Vol. 120)

Both the practical failures and the fallacy of rigid boundaries generated by extralegal activism rhetoric permit us to broaden our inquiry to the underlying assumptions of current proposals regarding transformative politics — that is, attempts to produce meaningful changes in the political and socioeconomic landscapes. The suggested alternatives produce a new image of social and political action. This vision rejects a shared theory of social reform, rejects formal programmatic agendas, and embraces a multiplicity of forms and practices. Thus, it is described in such terms as a plan of no plan,211 “a project of pro- jects,”212 “anti-theory theory,”213 politics rather than goals,214 presence rather than power,215 “practice over theory,”216 and chaos and openness over order and formality. As a result, the contemporary message rarely includes a comprehensive vision of common social claims, but rather engages in the description of fragmented efforts. As Professor Joel Handler argues, the commonality of struggle and social vision that existed during the civil rights movement has disappeared.217 There is no unifying discourse or set of values, but rather an aversion to any metanarrative and a resignation from theory. Professor Handler warns that this move away from grand narratives is self-defeating precisely because only certain parts of the political spectrum have accepted this new stance: “[T]he opposition is not playing that game . . . . [E]veryone else is operating as if there were Grand Narratives . . . .”218 Intertwined with the resignation from law and policy, the new bromide of “neither left nor right” has become axiomatic only for some.219 The contemporary critical legal consciousness informs the scholarship of those who are interested in progressive social activism, but less so that of those who are interested, for example, in a more competitive securities market. Indeed, an interesting recent development has been the rise of “conservative public interest lawyer[ing].”220 Although “public interest law” was originally associated exclusively with liberal projects, in the past three decades conservative advocacy groups have rapidly grown both in number and in their vigorous use of traditional legal strategies to promote their causes.221 This growth in conservative advocacy is particularly salient in juxtaposition to the decline of traditional progressive advocacy. Most recently, some thinkers have even suggested that there may be “something inherent in the left’s conception of social change — focused as it is on participation and empowerment — that produces a unique distrust of legal expertise.”222 Once again, this conclusion reveals flaws parallel to the original disenchantment with legal reform. Although the new extralegal frames present themselves as apt alternatives to legal reform models and as capable of producing significant changes to the social map, in practice they generate very limited improvement in existing social arrangements. Most strikingly, the cooptation effect here can be explained in terms of the most profound risk of the typology — that of legitimation. The common pattern of extralegal scholarship is to describe an inherent instability in dominant structures by pointing, for example, to grassroots strategies,223 and then to assume that specific instances of counterhegemonic activities translate into a more complete transformation. This celebration of multiple micro-resistances seems to rely on an aggregate approach — an idea that the multiplication of practices will evolve into something substantial. In fact, the myth of engagement obscures the actual lack of change being produced, while the broader pattern of equating extralegal activism with social reform produces a false belief in the potential of change. There are few instances of meaningful reordering of social and economic arrangements and macro-redistribution. Scholars write about decoding what is really happening, as though the scholarly narrative has the power to unpack more than the actual conventional experience will admit.224 Unrelated efforts become related and part of a whole through mere reframing. At the same time, the elephant in the room — the rising level of economic inequality — is left unaddressed and comes to be understood as natural and inevitable.225 This is precisely the problematic process that critical theorists decry as losers’ self-mystification, through which marginalized groups come to see systemic losses as the product of their own actions and thereby begin to focus on minor achievements as representing the boundaries of their willed reality. The explorations of micro-instances of activism are often fundamentally performative, obscuring the distance between the descriptive and the prescriptive. The manifestations of extralegal activism — the law and organizing model; the proliferation of informal, soft norms and norm-generating actors; and the celebrated, separate nongovernmental sphere of action — all produce a fantasy that change can be brought about through small-scale, decentralized transformation. The emphasis is local, but the locality is described as a microcosm of the whole and the audience is national and global

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. In the context of the humanities, Professor Carol Greenhouse poses a comparable challenge to ethnographic studies from the 1990s, which utilized the genres of narrative and community studies, the latter including works on American cities and neighborhoods in trouble.226 The aspiration of these genres was that each individual story could translate into a “time of the nation” body of knowledge and motivation.227 In contemporary legal thought, a corresponding gap opens between the local scale and the larger, translocal one. In reality, although there has been a recent proliferation of associations and grassroots groups, few new local-statenational federations have emerged in the United States since the 1960s and 1970s, and many of the existing voluntary federations that flourished in the mid-twentieth century are in decline.228 There is, therefore, an absence of links between the local and the national, an absent intermediate public sphere, which has been termed “the missing middle” by Professor Theda Skocpol.229 New social movements have for the most part failed in sustaining coalitions or producing significant institutional change through grassroots activism. Professor Handler concludes that this failure is due in part to the ideas of contingency, pluralism, and localism that are so embedded in current activism.230 **Is the focus on small-scale dynamics simply an evasion of the need to engage in broader substantive debate**? It is important for next-generation progressive legal scholars, while maintaining a critical legal consciousness, to recognize that not all extralegal associational life is transformative. We must differentiate, for example, between inward-looking groups, which tend to be self- regarding and depoliticized, and social movements that participate in political activities, engage the public debate, and aim to challenge and reform existing realities.231 We must differentiate between professional associations and more inclusive forms of institutions that act as trustees for larger segments of the community.232 As described above, extralegal activism tends to operate on a more divided and hence a smaller scale than earlier social movements, which had national reform agendas. Consequently, within critical discourse there is a need to recognize the limited capacity of small-scale action. We should question the narrative that imagines consciousness-raising as directly translating into action and action as directly translating into change. Certainly not every cultural description is political. Indeed, it is questionable whether forms of activism that are opposed to programmatic reconstruction of a social agenda should even be understood as social movements. In fact, when groups are situated in opposition to any form of institutionalized power, they may be simply mirroring what they are fighting against and merely producing moot activism that settles for what seems possible within the narrow space that is left in a rising convergence of ideologies. The original vision is consequently coopted, and contemporary discontent is legitimated through a process of self-mystification.

### AT: Conscience Link

#### Even illusory agency is productive. Imagining possible changes is necessary to motivate action.

Elizabeth SHOVE Sociology @ Lancaster AND Gordon WALKER Geography @ Lancaster ‘7 “CAUTION! Transitions ahead: politics, practice, and sustainable transition management” *Environment and Planning C* 39 (4)

For academic readers, our commentary argues for loosening the intellectual grip of ‘innovation studies’, for backing off from the nested, hierarchical multi-level model as the only model in town, and for exploring other social scientific, but also systemic theories of change. The more we think about the politics and practicalities of reflexive transition management, the more complex the process appears: for a policy audience, our words of caution could be read as an invitation to abandon the whole endeavour. If agency, predictability and legitimacy are as limited as we’ve suggested, this might be the only sensible conclusion.However, we are with Rip (2006) in recognising the value, productivity and everyday necessity of an ‘illusion of agency’, and of the working expectation that a difference can be made even in the face of so much evidence to the contrary. The outcomes of actions are unknowable, the system unsteerable and the effects of deliberate intervention inherently unpredictable and, ironically, it is this that sustains concepts of agency and management. As Rip argues ‘illusions are productive because they motivate action and repair work, and thus something (whatever) is achieved’ (Rip 2006: 94). Situated inside the systems they seek to influence, governance actors – and actors of other kinds as well - are part of the dynamics of change: even if they cannot steer from the outside they are necessary to processes within. This is, of course, also true of academic life. Here we are, busy critiquing and analysing transition management in the expectation that somebody somewhere is listening and maybe even taking notice. If we removed that illusion would we bother writing anything at all? Maybe we need such fictions to keep us going, and maybe – fiction or no - somewhere along the line something really does happen, but not in ways that we can anticipate or know.

### 2AC Both – Reform

#### Their insistence on negativity and a particular starting point is problematic—only our inclusive approach can create movements and tangible change

Brand-Jacobsen, 2005[Kai Frithjof Brand-Jacobsen is founder and Director of the Peace Action, Training and Research Institute of Romania (PATRIR) and Co-Director of TRANSCEND, and is on the Executive Board of the TRANSCEND Peace University (TPU) where he is Course Director for the courses Peacebuilding and Empowerment and War to Peace Transitions. He has worked in Afghanistan, India, Pakistan, Nepal, Russia, South Eastern Europe, North America, Colombia, Somalia, Cambodia, Aceh-Indonesia and the Middle East at the invitation of governments, inter-governmental organisations, UN agencies, and local organisations and communities. He has written and published widely, and is author of The Struggle Continues: The Political Economy of Globalisation and People's Struggles for Peace (Pluto, forthcoming), co-author, together with Johan Galtung and Carl Jacobsen, of Searching for Peace: The Road to TRANSCEND (Pluto, 2000 & 2002) and Editor of the TRANSCEND book series published together with Pluto Press, Constructive Peace Studies: Peace by Peaceful Means. He is a member of the Executive Board of the Journal of Peace and Development and the Executive Board of the Centre for Peace and Conflict Resolution. In 1999 he was founder and Director of the Coalition for Global Solidarity and Social Development, and in 2000, together with Johan Galtung, he was founder of the Nordic Institute for Peace Research (NIFF). Since 1996 he has provided more than 250 training programmes in peacebuilding, development, and constructive conflict transformation to more than 4000 participants in 30 countries. <http://www.globalsolidarity.org/articles/peace_means_kai.html>]

Peace by Peaceful Means  
  
Dear Friends, The discussions which have taken place over e-mail over the past few days have been extremely interesting. I have just returned from Oslo where the 100th anniversary of the Nobel Peace Prize was being celebrated. The obvious contrast between the rather elite 'suit' dominated celebrations in Oslo and the realities of what is occurring in the world today was stark. Questions of strategy, tactics and visions for how we work to bring about change, to transform all forms of violent conflict -- direct, structural, and cultural -- and to empower, mobilise, and involve people in a mass, broad-based movement for peace and to build the alternatives we are looking for, are **vital**. In Norway alone, to take one example, perhaps 80% of people think what is happening now in and over Afghanistan is wrong, either completely or at least in part, and yet all they hear from the media, academics and politicians is constant support and acclaim for the 'justness' of this war (or indeed, any war in which it is 'we' against 'them'). Small groups of people and 'NGOs', in Norway as in every single country, are trying to bring forward alternatives

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, to raise their voices, and to protest/oppose what they think is wrong. While these organisations are in every case much smaller than our governments and militaries going to war, they often represent the social majority. A major challenge they face, however, is how to reach out to people, how to involve people, and how to develop alternatives which make sense to people tired of war and violence (whether of the kind we are seeing in Afghanistan, or of a global economic system killing 100,000 a day). **Negative** **slogans** and **opposition** to what is wrong **is** **not** **enough** however. It is not enough, but it is necessary. 'Basta!', 'Enough!' was perhaps the most 'revolutionary' cry of the last decade, and still is in many parts of the world. The simple, courageous act, of standing up when we see that something is wrong, and stating that it is wrong, not cooperating with it, can be a powerful and evocative symbol. When we are having our conferences, discussions and meetings in whichever city, town or village of the world we may be found, we should always remember that the vast majority of people in our own city, town or village, as well as the entire rest of the world, have no idea that we are there, meeting. The vision, hope and ideas which bring people to these conferences are, in the vast majority of cases, kept marginalised, on the periphery. Yet that is also part of our own responsibility, technique and methods. Basta! became a cry to inspire millions, because those who said it lived it, refusing to cooperate any longer with what they know to be wrong. While Basta! may be the most revolutionary cry or word today, transforming all forms of direct, structural, and cultural violence is the greatest challenge. The two are **inclusive** and **complementary**, not exclusive. We need to state clearly our opposition to violence, war, injustice and exploitation (the 'peace movement' has often been willing to do the first two, not always as willing on the last two), and we need also to build a constructive, positive programme. It is not only a question of what we are against, but what we are for. When we criticize what we think is wrong, people will also want to know what we think could be done instead. In these cases, our **answers** **must** **seem** **real** and **viable** to people. The 'anti-globalisation' movement is therefore also a social justice movement; 'non-governmental organisations' should also be people's organisations or people's movements; and one of our challenges today will be to build upon the growing 'anti-war' movement, transforming it also into a peace movement. A step further, as many social and peace activists have recognised, will be to link the peace and social justice movements. Slogans and messages are important, as are practice and vision. It will not be possible today to unite broad numbers of people around issues which they feel are too abstract and divorced from them. The 'abolish the debt' campaign/movement was successful because people were able to see the clear linkages between debt and the effective colonisation and enslavement of countries and people across the south, as well as the incredible suffering and destruction it brought. The Jubilee 2000 'campaign' however, unlike the Jubilee South movement which continues today, did not reach its objective of having the debt cancelled. Instead, while many people around the world believe the problem has been solved, the debt-system and the burden it places upon countries has become even more extreme. Going from 'campaigns' to movements will also be important, though even here it is not a question of 'either/or' but 'both/and' with individual campaigns extremely useful and effective at times for involving people, raising awareness and mobilising around specific issues, strengthening further the broader movements of which they may be a part. Today, a movement for demos kratos is necessary, and vital for any movement or work towards peace. To speak about the United States or any government in the world today as a 'democracy' is a ridiculous farce. They are highly elite dominated systems built upon massive structures and cultures of violence, and willing to use overwhelming (Powel Doctrine) violence when necessary to enforce their needs and/or interests. At best they may be demagogia's, where elites maintain power by promising the people what they will do for them (we call this 'elections'), but they are not system's or societies built upon people's power, demos kratos. Decisions to go to war are made by tiny numbers of people. Our economic and political policies are constructed for us, often to the detriment of the social majorities who are told to 'leave well enough alone' and trust in the experts. This is sometimes as true of politicians as it is of non-governmental organisations who themselves frequently prefer the conference halls and well-funded projects to actually working democratically with people as part of the people themselves. An alternative today, what Johan Galtung has called for, with 10,000 dialogues, meetings, discussions at every level, focussing not only on what is wrong, but also on what we want therapy, ideas, alternatives. In one form or another many of these dialogues are taking place. In a way they are therapy for the massive amounts of violence we are all being exposed to today, in our cultures, in our world, on our television sets or in the speeches of our 'democratically elected' rulers (the question, for those who do not support their policies, should not be 'who put them in power' -- though this is also important -- but why haven't we removed them from power yet\_). They are also empowering, if we take the step beyond saying what is wrong to what could be done\_, what should be done\_, and then go further to discussing what I/we can do about it. Mobilising people for peace today is not simply about a slogan (though coming up with clearly expressed messages in a few words will of course help us to link people together and raise awareness). What is necessary, beyond any single issue or top-level strategy for how to change the world, is the process. The way is the goal. Perhaps the greatest achievement of the social justice/anti-globalisation movement is that it has mobilised, involved, and empowered millions of people around the world in discussing, thinking about, and acting upon the realities around them. On the streets of Seattle, Praha, Okinawa, Melbourne, Gotheburg, Washington, Quebec, Genoa, Ottawa, people, many of whom refuse to vote, have been discussing foreign policy, domestic politics, people to people movements, and all the issues which politicians and well-established NGOs are not able and often not willing to discuss with people. We have our 'manifestos', our policies and plans which we wish to put forward in the name of people, often addressing them to 'politicians' and 'elites' believing, in a fundamentally undemocratic way, that they will be the ones to bring about and implement change for us. This is not to say that that is not an important level which we also need to work at. The broader vision here is both/and, not either or, in terms of strategy as well often of vision. We also need, however, to be willing to take part in the much slower, more timely, and more empowering process, of tens of thousands of dialogues together with people, communities, and organisations at every level. Solidarity today is being built upon and carried further into alliances not just supporting people in their struggles for social justice, peace and freedom, but carrying forward those struggles ourselves in our own communities, our own towns, cities and villages. If we wish to change the injustices taking place in the world today we must of course work on a global level, but we must also work, just as importantly, within our communities. Again, both/and rather than either or. We should also be wary when we say 'we must begin here', or 'this must be done first!', even when the message is very positive and constructive. 'We must begin with the individual!'. 'We must begin by changing society!'. 'We must begin with a culture of peace!'. 'We must begin by ending the debt!'. All of these, and the many others put forward, are extremely important issues. They are also all linked together. Again, both/and. Exclusive and elitist visions will only serve to further fragment our efforts, creating division and separation where what is needed is dialogue, solidarity, cooperation and alliances between movements/organisations which often take diverse strategies and approaches to addressing deeply interlinking injustices and structures and cultures of violence. Conscientisation (raising awareness, often political awareness -- but also social, cultural, economic), organisation (we can do more together than we can apart, and it is necessary to organise -- though in many different ways -- to be able to bring about changes, both against what we think is wrong and for what we think is right), mobilisation (bringing in more and more people, involving people in dialogues, discussion, action, and work for change/transformation), and empowerment (I/we can, rather than 'I/we can't'; also important recognising the power we have to bring about change, rather than simply accepting existing, often extremely violent, power structures and believing that change can/should/must be implemented by those 'in power', whether slave owners, men, politicians, or fuhrers) are all necessary.

#### We must reject hopelessness—participating in democratic movements via solidarity with causes creates the CULTURAL and PSYCHOLOGICAL building blocks necessary for anti-authoritarian movements at home AND abroad—refusing this solidarity creates a cycle of pessimism, passivity, and mental slavery. The Aff, even if it cannot itself accomplish anything, is a psychological prerequisite for any change.

Levine 11 [Bruce, Bruce E. Levine, PhD, is a clinical [psychologist](http://en.wikipedia.org/wiki/Psychologist) in private practice in [Cincinnati, Ohio](http://en.wikipedia.org/wiki/Cincinnati,_Ohio). He has been in practice for more than two decades.[[citation needed](http://en.wikipedia.org/wiki/Wikipedia:Citation_needed" \o "Wikipedia:Citation needed)Levine's most recent book is Get Up, Stand Up: Uniting Populists, Energizing the Defeated, and Battling the Corporate Elite (Chelsea Green Publishing, 2011, [ISBN 1603582983](http://en.wikipedia.org/wiki/Special:BookSources/1603582983)). It calls for a new kind of politics to help Americans overcome political demoralization. <http://october2011.org/blogs/kevin-zeese/how-anti-authoritarians-can-transcend-their-sense-hopelessness-and-fight-back>]

Critical thinking anti-authoritarians see the enormity of the military-industrial complex, the energy-industrial complex, and the financial-industrial complex. They see the overwhelming power of the U.S. ruling class. They see many Americans unaware of the true sources of their oppression or with little knowledge of the strategies and tactics necessary to overcome it. They see American society lacking the psychological and cultural building blocks necessary for democratic movements—the self-respect required to reject the role as a mere subject of power, the collective self-confidence that success is possible, courage, determination, anti-authoritarianism, and solidarity. They see how the corporatocracy pays back those few Americans who do question, challenge, and resist illegitimate authority with economic and political marginalization. Why bother with any kind of political activism? Isn’t it futile? Critical Thinking, Depression, and Political Passivity Research shows that a more accurate notion of one’s powerless can result in a greater feeling of helplessness and is associated with depression. Several classic studies show that moderately depressed people are more critically thinking than those who are not depressed. Researchers Lauren Alloy and Lyn Abramson, studying nondepressed and depressed subjects who played a rigged game in which they had no actual control, found that nondepressed subjects overestimated their contribution to winning, while depressed subjects more accurately evaluated their lack of control. If you are critical thinking enough to see the reality of just how much influence the corporatocracy has and how little power you have, then you are going to experience more pain than those who do not see these truths. To dull this pain, in addition to drugs and other diversions, human beings use depression and apathy. But these “shutdown strategies” weaken us and create passivity, immobilization, and what Bob Marley called “mental slavery,” which in itself can be humiliatingly painful. And in this vicious cycle, human beings use even more diversions and shutdown strategies to dull this ever-increasing pain. When one is in such a debilitating vicious cycle, painful truths about the cause of one’s malaise—the truths of how we are getting screwed—are not positively energizing. Instead, one may take such truths as confirmation that pessimism and hopelessness are warranted. The vicious cycle continues. When one is already in pain and immobilized, there is a reflexive negative reaction to any proposed solution. Solutions demand effort, and a demand for effort is painful for those with little energy. So, it’s much easier to reflexively dismiss any solution. Of course, many solutions do deserve to be dismissed, as they may well be naïve. The feeling of hopelessness is a legitimate one. And hopeless people are turned off by attempts to invalidate their feelings. Is it possible to validate that feeling of hopelessness while at the same time challenging the wisdom of inactions based on hopelessness? And is it possible to challenge it in a way that doesn’t insult the intelligence of critical thinkers? Critical Thinking about Critical Thinking The battle against the corporatocracy demands critical thinking, which results in seeing many ugly truths about reality. This critical thinking is absolutely necessary. Without it, one is more likely to engage in tactics that can make matters worse. Critical thinking also means the ability to think critically about one’s pessimism—realizing that pessimism can cripple the will. Critical thinkers who reflect on their own critical thinking recognize how negativism can cause inaction, which results in maintaining the status quo. Critical thinking anti-authoritarians who move into hopelessness can forget that while they may in fact be better at seeing ugly truths than are many other people, they cannot see everything. Simply put, critical thinkers sometimes lose their humility Abraham Lincoln, considered by many historians to be our most critical thinking president, was also a major depressive. When he was a young man, he became so depressed that twice his friends had to form suicide watches over him. In the 1850s in the United States, the major battle was less over abolishing slavery than merely stopping the spread of it. Lincoln, who fought politically to stop the spread of slavery, wrote in 1856 a pessimistic analysis of the North’s chances of winning this fight: This immense, palpable pecuniary interest, on the question of extending slavery, unites the Southern people, as one man. But it can not be demonstrated that the North will gain a dollar by restricting it. Moral principle is all, or nearly all, that unites us of the North. Pity ’tis, it is so, but this is a looser bond, than pecuniary interest. Right here is the plain cause of their perfect union and our want of it. That slavery would be abolished in the United States less than a decade after Lincoln’s pessimistic analysis of the difficulty of merely stopping its spread was one of those seeming impossibilities that became possible because of unforeseen historical events. In the North, there was certainly not enough concern for African Americans so as to end slavery. But less than a decade after Lincoln’s pessimistic analysis about merely stopping the spread of slavery, one unforeseen event after another resulted in the abolition of slavery. There are many examples from history of seeming impossibilities actually happening, examples that compel critical thinkers to rethink whether they are actually seeing all the possibilities. One recent example is, of course, the Arab spring. Many critical thinkers from that part of the world remain amazed at the huge revolts in Egypt that toppled the Mubarak tyranny. The collapse of the Soviet empire seemed impossible to most Americans up until shortly before it occurred. Most Americans saw only mass resignation within the Soviet Union and its sphere of control. But the shipyard workers in Gdansk, Poland, did not see their Soviet and Communist Party rulers as the all-powerful forces that Americans did. And so Polish workers’ Solidarity, by simply refusing to go away, provided a strong dose of morale across Eastern Europe at the same time other historical events—such as the Soviet Union’s Afghanistan war—weakened their empire. Why Not Just Wait for the Collapse? History tells us that not just the Soviet empire but all empires ultimately collapse, and so why not just wait for their fall? It is pretty safe to say that the U.S. military-industrial complex and other oppressive U.S. industrial complexes will ultimately fall. These may be transformed by our own efforts or, more likely—given Americans’ current state of political passivity—they will fall owing mostly under the weight of their own stupidity. So, if it is more likely that these will fall under the weight of their own stupidity, why bother with activism? One reason for democratic movements is that history tells us that not all empires and oppressive institutions fall under the weight of their own stupidity, as some are transformed by a combination of democratic movements and empire stupidity. There is another reason to work each day on the democracy battlefields at our workplace, schools, the media, the marketplace, etc. Whether an empire and its oppressive institutions fall under the weight of their own stupidity or with help from a democratic movement, there must be people around in the aftermath who have what it takes to create and maintain a democratic society. There must be people who have retained their individual self-respect, collective self-confidence, courage, determination, anti-authoritarianism, and solidarity. The lesson from history is that tyrannical and dehumanizing institutions are often more fragile than they appear. We never really know until it happens whether or not we are living in that time when historical variables are creating opportunities for seemingly impossible change. Maybe in our lifetime, or our kids’ lifetime, or their kids’ lifetime, the current corporatocracy will fall. It may fall because of the efforts of democratic movements or because of its own stupidity or some combination. But when it does fall, the likelihood that it will be replaced by an enduring democratic society rests on whether there are enough of us with practice in democracy, enough of us who **took** **seriously** the **psychological** and **cultural** **building** **blocks** of self-**respect**, collective self-**confidence**, **courage**, determination, **anti**-**authoritarianism**, and **solidarity**. And **democratic** **movements** are the **best** **place** to **practice** creating those **psychological** and **cultural** **building** **blocks** required for an enduring democracy.

## 1AR

### 1AR Empathy Things

#### Critique of empathy is wrong – they conflate sympathy with recognition – truth claims require empathy

Colby 2012, In Defense of Judicial Empathy¶ Thomas B. Colby¶ George Washington University, [tcolby@law.gwu.ed](mailto:tcolby@law.gwu.ed), http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=1178&context=faculty\_publications

Over the five-year period from 2005 to 2010, the Senate Judiciary Committee held confirmation hearings for four Su- preme Court nominees—a sudden flood of activity that followed more than a decade without a single high court vacancy. Some observers celebrated those events as a rare opportunity for the American public to give serious consideration to matters of ju- dicial philosophy.5 Alas, the opportunity, if there ever truly was one, was squandered. In the place of thoughtful dialogue and public education, the hearings presented the American people with maddeningly simplistic and vapid accounts of judicial de- cision making. They pitted against each other two starkly con- trasting visions of the role of the judge.6 On the right, we had the portrait, popularized by Chief Justice Roberts in his con- firmation hearings, of the judge as detached umpire—simply calling balls and strikes, applying the law, rather than making it.7 On the left, we had the portrait, popularized by President Obama, of the engaged, empathic judge—whose decisions are influenced by a “quality of empathy, of understanding and identifying with people’s hopes and struggles.”8

In the form in which they were received by the public, both portraits are clumsy and vacuous caricatures.9 And it is the conservatives who, it seems, have been most successful in shap- ing the public’s understanding of both models. That is to say, conservatives have had considerable success in portraying the judicial selection process as a choice between conservative judges who dutifully and humbly follow the law without regard to their own personal preferences and liberal judges who bra- zenly ignore or defy the law so as to rule out of personal sympa- thy for their preferred groups.10

Painting judging in this light obviously serves political goals, and perhaps does so quite effectively. But it undermines any serious attempt to educate the public about judicial deci- sion making.11 On that score, neither of these portraits is in the least bit enlightening. The judge-as-umpire analogy has the potential to be nu- anced and perhaps even edifying,12 and maybe Chief Justice Roberts meant to invoke a complicated concept.13 But the mes- sage received by the public—and the Senate—lacked any such subtlety.14 Rather, the message came across that good judges (which is to say, conservative judges) decide all cases by simply following the law, mechanically calling balls and strikes accord- ing to clear and determinative rules set down by the Framers and legislatures.15

This bears virtually no resemblance to the actual process of judging. It should be difficult for any knowledgeable person to take seriously the claim that good, principled, “non-activist” judges never make law—that they, instead, simply act as um- pires, discerning in every case the single, correct answer that is inexorably dictated by the governing legal authorities.16 As Er- win Chemerinsky has explained, “any first year law student knows that judges make law constantly. The first year stu- dent’s common law subjects are almost entirely judge-made law. Interpretation of an ambiguous statute or a constitutional provision’s broad, open-textured language is also a judge’s legal product.”17 Surely “we are all realists now” in the simple sense that any even remotely sophisticated student of law recognizes that the formal sources of law often do not dictate clear and un- equivocal answers to the questions posed to judges.18 The popu- lar judge-as-umpire portrait utterly fails to acknowledge the basic reality of judging.

As for the other portrait—the empathic judge— conservatives have largely succeeded in painting it in such spectacularly unflattering terms19 that the Democratic mem- bers of the Judiciary Committee shied away from defending it,20 President Obama’s own Supreme Court nominees appeared to reject it,21 and even the President himself eventually backed off of it.22 “Empathy,” as observers of political discourse have noted, has “become code now for activist judge.”23 According to many conservatives, liberals openly and una- bashedly view judging as a purely political act. Accordingly, the only thing that liberals look for in a judge is an assurance that he or she will reach politically liberal results.24 As one commen- tator sees it:

For most liberal judges, the primary purpose of being a judge is to promote social justice and transform society. That is why liberal judg- es are so much more likely to be judicial activists than conservative judges. Most liberal judges do not see their roles as merely adjudicating a dispute according to the law. They see their role primarily as using the law and their power to rule on the law to promote social justice.25

Thus, claim conservatives, “as a general mat- ter . . . political conservatives want non-ideological judges, not ‘conservative’ ones, while political liberals want ideologically liberal judges.”26

Those who ascribe to this cynical view of liberal judicial philosophy take President Obama’s call for judicial empathy as an acknowledgement of his preference for this approach—as a stunningly honest confession that he wants judges who will ig- nore the law and instead decide cases in favor of minorities and the oppressed.27 They insist that, because “judging based on empathy is really just legislating from the bench,”28 President Obama’s empathy standard is “antithetical to the proper role of a judge.”29

II. THE VIEW OF EMPATHY AMONG CONSERVATIVE LEGAL INTELLECTUALS

One might be tempted to speculate that these crude por- traits, however much salience they might have with lay com- mentators, politicians, and the general public,30 hold no sway over those who should know better.31 Perhaps this is all just dumbed-down political theater, and is recognized as such by se- rious intellectuals of all stripes. But my impression is that many—though of course not all—conservative legal intellectu- als do indeed believe a somewhat softened version of these claims. They do think that there are “correct” doctrinal answers to most of even the thorniest legal questions,32 and they doubt very much that liberals have any genuine interest in ascertain- ing them.33 Viewed charitably, their line of reasoning would appear to be that liberals have been seduced by what might be called “vulgar realism”34 to believe that law is radically inde- terminate, and thus that it must really be the judges’ political beliefs that decide cases.35 As such, liberals have given up on law, and they simply ask judges to be reliable liberal politi- cians.36 When President Obama calls for empathy in judging, he simply means that politician-judges should be good liberals and favor the sympathetic little guy.

Sentiments along these lines have been expressed by con- servative commentators with serious legal credentials37 and by conservative judges and law professors.38 Steven Calabresi, for instance, summarizes President Obama’s “extreme left-wing views about the role of judges. He believes—and he is quite open about this—that judges ought to decide cases in light of the empathy they ought to feel for the little guy in any law- suit.”39 Obama’s view is that “[e]mpathy, not justice, ought to be the mission of the federal courts, and the redistribution of wealth should be their mantra.”40 Which means, in turn, that

Obama’s emphasis on empathy in essence requires the appointment of judges committed in advance to violating [their] oath. To the tradi- tional view of justice as a blindfolded person weighing legal claims fairly on a scale, he wants to tear the blindfold off, so the judge can

rule for the party he empathizes with most.41

In welcome contrast to these overblown fusillades, my col-

league, Orin Kerr, has offered a significantly more sophisticat- ed take on President Obama’s call for empathic judges. In an extended blog post, Kerr suggests that, to understand what President Obama means by empathy, “we need to recognize the important but usually overlooked differences in how different people understand the role of ambiguity in judicial decisionmaking.”42 Kerr notes “that there is a sliding scale be- tween cases where the relevant legal materials point to an ab- solute answer and cases where there is a tougher call to make,” and he opines that, when it comes to cases at the latter end of the scale, “there are two different ways to deal with this kind of legal ambiguity.”43 The first “approach is to see legal ambiguity as cause for judicial weighing. This view sees the role of the judge as narrow.”44 On this view, the

judge must weigh the best legal arguments on one side and the best legal arguments for the other, and must pick the side that has the better of it, no matter how slight the advantage. If a case is 55/45, [then] there is a correct answer, because 55 is greater than 45.45 The other approach, by contrast, “is to see legal ambiguity as cause for judicial empowerment.”46 On this alternative view, the judge must “dutifully follow[] the law when the law is clear. But as soon as there is some ambiguity, and the law is unclear, then the judge is free to decide the case however he wants.”47 There is no need “for a case to be truly 50/50” for the judge to follow her own preferences.48

So long as there is some appreciable legal ambiguity, there is no clear “correct” answer. Maybe 70/30 is enough, or maybe even 75/25 will do. Either way, the lack of a “correct” answer means that the judge can rule in a way that furthers whatever normative vision of the law that the judge happens to like.49

Kerr opines that President Obama’s statements about em- pathy indicate that he “is in the latter camp: He sees legal am- biguity as a cause for judicial empowerment. He believes that when there is legal ambiguity, a judge is then free to make the decision he wants.”50 Thus,

Obama sees empathy as critical because he thinks that judges in close cases have a free choice as to which side should win. A substantial number of the close cases that reach the Supreme Court involve some sort of power dynamic—employer versus employee, plaintiff versus big company—and Obama wants the judge who will pick the side of the powerless.51

In its nuance, this interpretation is certainly more charita- ble to the President than other recent critiques of empathy in judging have typically been. Yet it still boils down to an asser- tion that, in some meaningful category of important cases (in- deed, the most important and most difficult cases), judges of the sort favored by the President self-consciously choose politi- cally desirable results over legally stronger arguments. In the hardest of cases, conservative judges do their best to follow the law regardless of their policy preferences, whereas empathic judges consciously ignore or override their own sense of the stronger legal argument in favor of their policy preferences.52

If even Orin Kerr—as thoughtful and fair-minded a con- servative public intellectual as they come—thinks that this is what liberals are looking for in an empathic judge, then liberals need to do a much better job of explaining themselves.

III. THE NATURE OF EMPATHY

In order to defend empathy, we must first define it. We could easily get bogged down at this first step, for the meaning of “empathy” is surprisingly elusive. The word is relatively new to the English language, and for many years the science and social science literature has struggled to agree upon a defini- tion.53 But for our purposes, the dictionary definition should do fine.54 Empathy is “the action of understanding, being aware of, being sensitive to, and vicariously experiencing the feelings, thoughts, and experience of another of either the past or pre- sent without having the feelings, thoughts, and experience fully communicated in an objectively explicit manner; also: the ca- pacity for this.”55

That is to say, empathy involves the cognitive skill of per- spective taking—the ability to see a situation from someone else’s perspective—combined with the emotional capacity to understand and feel that person’s emotions in that situation.56

Empathy does not, then, dictate or even imply a propensity to act in any particular way, or to favor any particular group. “Empathy is first and foremost a capacity. Strictly speaking, it is value-free. . . . What one does with the insight provided by empathic understanding” is a separate inquiry from whether or not one is capable of empathizing.57 By the same token, empa- thy is manifestly not the same thing as sympathy. To sympa- thize is to feel for someone; to empathize is to feel with them.58 “[W]hen you feel sympathy for another with a problem, you do not actually experience emotions parallel to their’s [sic]; in- stead, you experience different emotions that are associated with concern or sorrow for another.”59 To empathize with oth- ers, by contrast, is not to feel sorry for them or to feel a need to help them; it is simply to understand things from their perspec- tive and to be able to sense what they are feeling.60 Virtually everyone experiences empathy; humans are hard-wired to em- pathize.61 Indeed, the complete inability to do so is the defining

characteristic of a psychopath.62

IV. THE IMPORTANCE OF EMPATHY IN JUDGING

Judge Richard Posner has suggested that, when it comes to judging, “the internal perspective—the putting oneself in the other person’s shoes—that is achieved by the exercise of empa- thetic imagination lacks normative significance.”63 It seems that a great many lawyers, judges, and legal academics would tend to agree. After all, the “popular image of lawyers is that we are committed to formal rationality. We are trained to cabin ‘empathic’ responses and remain steadfast in our commitment to legal principles despite emotional dissonance.”64 The object of this Article is to establish that, when properly understood, em- pathy is an essential tool of an effective judge. The argument in support of that assertion unfolds in four steps that cut progres- sively deeper into both the nature of judging and the nature of empathy.

A. THE INITIAL CUT: EMPATHY IN JUDGING MEANS SEEING (AND

UNDERSTANDING THE EFFECT OF ) THE ISSUE FROM ALL SIDES

President Obama has never spelled out in detail the role that he intends empathy to play in judicial decision making.65 Indeed, some feel that he has sent conflicting signals in this re- gard.66 But, it is nonetheless possible to distill from his state- ments a basic vision of judicial empathy.67

In explaining his vote against Chief Justice Roberts, then- Senator Obama declared that “adherence to legal precedent and rules of statutory or constitutional construction will dis- pose of 95 percent of the cases that come before a court, so that both a Scalia and a Ginsburg will arrive at the same place most of the time on those 95 percent of the cases.”68 But in the other five percent,

adherence to precedent and rules of construction and interpretation will only get you through the 25th mile of the marathon. That last mile can only be determined on the basis of one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy. . . .

In those circumstances, your decisions about whether affirmative ac- tion is an appropriate response to the history of discrimination in this country or whether a general right of privacy encompasses a more specific right of women to control their reproductive decisions or whether the commerce clause empowers Congress to speak on those issues of broad national concern that may be only tangentially related to what is easily defined as interstate commerce, whether a person who is disabled has the right to be accommodated so they can work alongside those who are nondisabled—in those difficult cases, the crit- ical ingredient is supplied by what is in the judge’s heart.69

In fairness, these remarks are perhaps naturally read to support Professor Kerr’s view that, in the President’s mind, se- lective empathy for the downtrodden should be the decisive fac- tor in cases where the law is not clear.70 And, independent of President Obama, some liberals who have called for empathy in judging seem to have endorsed that very sentiment.71

But one can call for empathy in judging without making such a radical claim, and I believe that that is what President Obama meant to do.72 Some years later, in explaining the crite- ria that would guide his search for a replacement for Justice Souter, President Obama declared:

I will seek someone who understands that justice isn’t about some ab- stract legal theory or footnote in a case book; it is also about how our laws affect the daily realities of people’s lives—whether they can make a living and care for their families; whether they feel safe in their homes and welcome in their own nation. I view that quality of empathy, of understanding and identifying with people’s hopes and struggles, as an essential ingredient for arriving a[t] just decisions and outcomes.73

There is nothing in this statement that implies that the President was searching for a judge who empathizes only with groups favored by the political left. The President appeared to reference not only the poor (“whether they can make a living and care for their families”) and immigrants and minorities (“whether they feel . . . welcome in their own nation”), but also actual and potential crime victims (“whether they feel safe in their homes”)—a group that in recent years tends to draw more empathy from conservatives than from liberals.74 Indeed, sev- eral years earlier, President Obama had written that “empa- thy . . . calls us all to task, the conservative and the liberal, the powerful and the powerless, the oppressed and the oppressor. We are all shaken out of our complacency. We are all forced be- yond our limited vision.”75 And in an interview with Oprah Winfrey, he had said that “[e]mpathy doesn’t just extend to cute little kids. You have to have empathy when you’re talking to some guy who doesn’t like black people.”76

Recall that empathy is not sympathy77—a point that Presi- dent Obama himself has made repeatedly.78 Empathy is not compassion for the oppressed, or for anyone else, for that mat- ter. Nor is it the capacity to feel the emotions of only the down- trodden. It is, rather, the capacity to understand the perspec- tive and feel the emotions of others—all others. President Obama has reiterated many times that he understands the “basic idea of empathy” to be exactly that: the ability to “imag- ine standing in [others’] shoes, imagine looking through their eyes.”79 A judge who exercises the ability to empathize will surely do so with the poor, the weak, and the little guy. But she will also empathize with the rich, the powerful, and the big guy. An empathic judge will understand the perspective of both the innocent man who was mistakenly detained by the police and the police officer who had to make a snap judgment when lives appeared to be at risk. She will understand the perspec- tive of both the aggrieved insured who was denied coverage for her loss and the skeptical claims adjustor who was concerned with avoiding fraud and containing costs. She will understand the perspective of both the dying patient who was misdiagnosed and the doctor who was rightly concerned with the costs and risks of ordering additional tests.

Empathy in judging centers on an ability to truly under- stand the human dimension of the case—the effects of the judge’s ruling on all of the people who will be affected by it. President Obama’s point is not that judges should ignore law in favor of sympathy, but rather that the ability to render justice necessitates not only an ability to grapple with complex legal theories and dense technical footnotes, but also an ability to “understand[ ] and identify[ ] with people’s”—all people’s— “hopes and struggles.”80 B. THE SECOND CUT: THE PERVASIVE NECESSITY TO UNDERSTAND THE PERSPECTIVES OF ALL SIDES IN JUDGING

Why is that so? Why must a judge be able to understand and identify with people’s hopes and struggles in order to accu- rately dispense justice? The answer to that question circles back to the bankruptcy of the popular judge-as-umpire analo- gy.81 If the law really were objectively determinate in every case, and if judging really were a mechanical exercise, then empathy would have very little role to play in good judging.82 A computer would be the perfect judge, and computers cannot empathize.

But the law is not mechanical; judging requires judgment. And judgment requires empathy. To understand why, we must explore the nature of the legal doctrine that judges are called upon to apply.

Susan Bandes, a pioneer in thinking about empathy and the law, has opined that a “judge uses empathy as a tool toward understanding conflicting claims. Empathy assists the judge in understanding the litigants’ perspectives. It does not help re- solve the legal issue of which litigant ought to prevail.”83 I disa- gree. Empathy does help resolve the legal issue of which liti- gant ought to prevail, because the legal question at issue often cannot be answered without understanding the way in which the litigants will be impacted by the decision.

This basic notion is embedded in the very foundation of our legal system. The entire common law system of judging is premised on the assumption that “making law in the context of deciding particular cases produces lawmaking superior to the methods that ignore the importance of real litigants exemplify- ing the issues the law must resolve.”84 When it comes to the federal courts in particular, one of the “‘implicit policies embod- ied in Article III’”85 is that requiring a genuine case or contro- versy “tends to assure that the legal questions presented to the court will be resolved, not in the rarified atmosphere of a debat- ing society, but in a concrete factual context conducive to a real- istic appreciation of the consequences of judicial action.”86 That is to say, Article III’s case or controversy requirement—and the justiciability doctrines of standing, mootness, ripeness, and the rule against advisory opinions that stem from it—are grounded in substantial part in the notion that real-world context mat- ters. Judges should not decide legal and constitutional issues in the abstract because they will arrive at better answers if they have a genuine appreciation of the ways in which the law af- fects real people.

Indeed, across the broad spectrum of constitutional law (and, more generally still, all law), the legal doctrine that has been built upon this foundation requires judges to gain an em- pathic appreciation of the case from the perspective of all of the litigants.