### 1—T

Your decision should answer the resolutional question: Is the enactment of topical action better than the status quo or a competitive option?

1. “Resolved” before a colon reflects a legislative forum

Army Officer School ‘04

 (5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A *formal* resolution, after the word "resolved:"

Resolved: (colon) That this council petition the mayor.

2. “USFG should” means the debate is solely about a policy established by governmental means

Ericson ‘03

(Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

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

They claim to win the debate for reasons other than the desirability of topical action. That undermines preparation and clash. Changing the question now leaves one side unprepared, resulting in shallow, uneducational debate. Requiring debate on a communal topic forces argument development and develops persuasive skills critical to any political outcome.

Simualted national security law debates inculcate agency and decision-making skills—that enables activism and avoids cooption

Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11/13, National Security Law Pedagogy and the Role of Simulations, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course **was to bridge the gap between theory and practice by conveying** doctrinal **material and** creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, **while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage**. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. **This is the most important determination, because the substance of the** doctrinal portion of the course and the **simulation follows from this decision**. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. **This**, then, **becomes a guide for the** doctrinal part of the **course, as well as the grounds on which the specific scenarios developed for the simulation** are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. **The one-size fits all approach** currently **dominating the conversation in legal education, however, appears ill-suited to address the concerns raised** in the current conversation. **Instead of looking at law across the board, greater insight can be gleaned by looking at** the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion **simulations**, which have not yet been addressed in the secondary literature for civilian education in national security law, may **provide an important way forward**. Such **simulations** also **cure shortcomings in other areas of experiential education**, such as clinics and moot court. It is in an effort to address these concerns that I developed **the simulation model** above. NSL Sim 2.0 certainly is not the only solution, but it **does provide a** starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. **It makes use of technology and physical space to engage students in a multi-day exercise, in which** they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

Debate over a controversial point of action creates argumentative stasis—that’s key to avoid a devolution of debate into competing truth claims, which destroys the decision-making benefits of the activity

Steinberg and Freeley ‘13

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*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

Debate is a means of settling differences, so there must be a controversy, a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a feet or value or policy, there is no need or opportunity for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four,” because there is simply no controversy about this state­ment. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions of issues, there is no debate. Controversy invites decisive choice between competing positions. Debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants live in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies are best understood when seated clearly such that all parties to the debate share an understanding about the objec­tive of the debate. This enables focus on substantive and objectively identifiable issues facilitating comparison of competing argumentation leading to effective decisions. Vague understanding results in unfocused deliberation and poor deci­sions, general feelings of tension without opportunity for resolution, frustration, and emotional distress, as evidenced by the failure of the U.S. Congress to make substantial progress on the immigration debate. Of course, arguments may be presented without disagreement. For exam­ple, claims are presented and supported within speeches, editorials, and advertise­ments even without opposing or refutational response. Argumentation occurs in a range of settings from informal to formal, and may not call upon an audi­ence or judge to make a forced choice among competing claims. Informal dis­course occurs as conversation or panel discussion without demanding a decision about a dichotomous or yes/no question. However, by definition, debate requires "reasoned judgment on a proposition. The proposition is a statement about which competing advocates will offer alternative (pro or con) argumenta­tion calling upon their audience or adjudicator to decide. The proposition pro­vides focus for the discourse and guides the decision process. Even when a decision will be made through a process of compromise, it is important to iden­tify the beginning positions of competing advocates to begin negotiation and movement toward a center, or consensus position. It is frustrating and usually unproductive to attempt to make a decision when deciders are unclear as to what the decision is about. The proposition may be implicit in some applied debates (“Vote for me!”); however, when a vote or consequential decision is called for (as in the courtroom or in applied parliamentary debate) it is essential that the proposition be explicitly expressed (“the defendant is guilty!”). In aca­demic debate, the proposition provides essential guidance for the preparation of the debaters prior to the debate, the case building and discourse presented during the debate, and the decision to be made by the debate judge after the debate. Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terri­ble job! They' are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do some­thing about this” or, worse, “It’s too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies, The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved; That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. This focus contributes to better and more informed decision making with the potential for better results. In aca­demic debate, it provides better depth of argumentation and enhanced opportu­nity for reaping the educational benefits of participation. In the next section, we will consider the challenge of framing the proposition for debate, and its role in the debate. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about a topic, such as ‘"homeless­ness,” or “abortion,” Or “crime,” or “global warming,” we are likely to have an interesting discussion but not to establish a profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet by itself fails to provide much basis for dear argumen­tation. If we take this statement to mean *Iliad* the written word is more effec­tive than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose, perhaps promoting positive social change. (Note that “loose” propositions, such as the example above, may be defined by their advocates in such a way as to facilitate a clear contrast of competing sides; through definitions and debate they “become” clearly understood statements even though they may not begin as such. There are formats for debate that often begin with this sort of proposition. However, in any debate, at some point, effective and meaningful discussion relies on identification of a clearly stated or understood proposition.) Back to the example of the written word versus physical force. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote weII-organized argument. What sort of writing are we concerned with—poems, novels, government documents, web­site development, advertising, cyber-warfare, disinformation, or what? What does it mean to be “mightier" in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advo­cates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

Linking the ballot to a *should* question in combination with USFG simulation teaches the skills to organize pragmatic consequences *and* philosophical values into a course of action

Hanghoj 8

http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf

 Thorkild Hanghøj, Copenhagen, 2008

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 Joas’ re-interpretation of Dewey’s pragmatism as a “theory of situated creativity” raises a critique of humans as purely rational agents that navigate instrumentally through meansends- schemes (Joas, 1996: 133f). This critique is particularly important when trying to understand how games are enacted and validated within the realm of educational institutions that by definition are inscribed in the great modernistic narrative of “progress” where nation states, teachers and parents expect students to acquire specific skills and competencies (Popkewitz, 1998; cf. chapter 3). However, as Dewey argues, the actual doings of educational gaming cannot be reduced to rational means-ends schemes. Instead, the situated interaction between teachers, students, and learning resources are played out as contingent re-distributions of means, ends and ends in view, which often make classroom contexts seem “messy” from an outsider’s perspective (Barab & Squire, 2004). 4.2.3. Dramatic rehearsal The two preceding sections discussed how Dewey views play as an imaginative activity of educational value, and how his assumptions on creativity and playful actions represent a critique of rational means-end schemes. For now, I will turn to Dewey’s concept of dramatic rehearsal, which assumes that social actors deliberate by projecting and choosing between various scenarios for future action. Dewey uses the concept dramatic rehearsal several times in his work but presents the most extensive elaboration in Human Nature and Conduct: Deliberation is a dramatic rehearsal (in imagination) of various competing possible lines of action… [It] is an experiment in finding out what the various lines of possible action are really like (...) Thought runs ahead and foresees outcomes, and thereby avoids having to await the instruction of actual failure and disaster. An act overtly tried out is irrevocable, its consequences cannot be blotted out. An act tried out in imagination is not final or fatal. It is retrievable (Dewey, 1922: 132-3). This excerpt illustrates how Dewey views the process of decision making (deliberation) through the lens of an imaginative drama metaphor. Thus, decisions are made through the imaginative projection of outcomes, where the “possible competing lines of action” are resolved through a thought experiment. Moreover, Dewey’s compelling use of the drama metaphor also implies that decisions cannot be reduced to utilitarian, rational or mechanical exercises, but that they have emotional, creative and personal qualities as well. Interestingly, there are relatively few discussions within the vast research literature on Dewey of his concept of dramatic rehearsal. A notable exception is the phenomenologist Alfred Schütz, who praises Dewey’s concept as a “fortunate image” for understanding everyday rationality (Schütz, 1943: 140). Other attempts are primarily related to overall discussions on moral or ethical deliberation (Caspary, 1991, 2000, 2006; Fesmire, 1995, 2003; Rönssön, 2003; McVea, 2006). As Fesmire points out, dramatic rehearsal is intended to describe an important phase of deliberation that does not characterise the whole process of making moral decisions, which includes “duties and contractual obligations, short and long-term consequences, traits of character to be affected, and rights” (Fesmire, 2003: 70). Instead, dramatic rehearsal should be seen as the process of “crystallizing possibilities and transforming them into directive hypotheses” (Fesmire, 2003: 70). Thus, deliberation can in no way guarantee that the response of a “thought experiment” will be successful. But what it can do is make the process of choosing more intelligent than would be the case with “blind” trial-and-error (Biesta, 2006: 8). The notion of dramatic rehearsal provides a valuable perspective for understanding educational gaming as a simultaneously real and imagined inquiry into domain-specific scenarios. Dewey defines dramatic rehearsal as the capacity to stage and evaluate “acts”, which implies an “irrevocable” difference between acts that are “tried out in imagination” and acts that are “overtly tried out” with real-life consequences (Dewey, 1922: 132-3). This description shares obvious similarities with games as they require participants to inquire into and resolve scenario-specific problems (cf. chapter 2). On the other hand, there is also a striking difference between moral deliberation and educational game activities in terms of the actual consequences that follow particular actions. Thus, when it comes to educational games, acts are both imagined and tried out, but without all the real-life consequences of the practices, knowledge forms and outcomes that are being simulated in the game world. Simply put, there is a difference in realism between the dramatic rehearsals of everyday life and in games, which only “play at” or simulate the stakes and risks that characterise the “serious” nature of moral deliberation, i.e. a real-life politician trying to win a parliamentary election experiences more personal and emotional risk than students trying to win the election scenario of The Power Game. At the same time, the lack of real-life consequences in educational games makes it possible to design a relatively safe learning environment, where teachers can stage particular game scenarios to be enacted and validated for educational purposes. In this sense, educational games are able to provide a safe but meaningful way of letting teachers and students make mistakes (e.g. by giving a poor political presentation) and dramatically rehearse particular “competing possible lines of action” that are relevant to particular educational goals (Dewey, 1922: 132). Seen from this pragmatist perspective, the educational value of games is not so much a question of learning facts or giving the “right” answers, but more a question of exploring the contingent outcomes and domain-specific processes of problem-based scenarios.

Decisionmaking is the most portable and flexible skill—key to all facets of life and advocacy

Steinberg and Freeley ‘13

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*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

In the spring of 2011, facing a legacy of problematic U.S, military involvement in Bosnia, Iraq, and Afghanistan, and criticism for what some saw as slow sup­port of the United States for the people of Egypt and Tunisia as citizens of those nations ousted their formerly American-backed dictators, the administration of President Barack Obama considered its options in providing support for rebels seeking to overthrow the government of Muammar el-Qaddafi in Libya. Public debate was robust as the administration sought to determine its most appropriate action. The president ultimately decided to engage in an international coalition, enforcing United Nations Security Council Resolution 1973 through a number of measures including establishment of a no-fly zone through air and missile strikes to support rebels in Libya, but stopping short of direct U.S. intervention with ground forces or any occupation of Libya. While the action seemed to achieve its immediate objectives, most notably the defeat of Qaddafi and his regime, the American president received both criticism and praise for his mea­sured yet assertive decision. In fact, the past decade has challenged American leaders to make many difficult decisions in response to potentially catastrophic problems. Public debate has raged in chaotic environment of political division and apparent animosity, The process of public decision making may have never been so consequential or difficult. Beginning in the fall of 2008, Presidents Bush and Obama faced a growing eco­nomic crisis and responded in part with '’bailouts'' of certain Wall Street financial entities, additional bailouts of Detroit automakers, and a major economic stimu­lus package. All these actions generated substantial public discourse regarding the necessity, wisdom, and consequences of acting (or not acting). In the summer of 2011, the president and the Congress participated in heated debates (and attempted negotiations) to raise the nation's debt ceiling such that the U.S. Federal Govern­ment could pay its debts and continue government operations. This discussion was linked to a debate about the size of the exponentially growing national debt, gov­ernment spending, and taxation. Further, in the spring of 2012, U.S. leaders sought to prevent Iran from developing nuclear weapon capability while gas prices in the United States rose, The United States considered its ongoing military involvement in Afghanistan in the face of nationwide protests and violence in that country1 sparked by the alleged burning of Korans by American soldiers, and Americans observed the actions of President Bashir Al-Assad and Syrian forces as they killed Syrian citizens in response to a rebel uprising in that nation and considered the role of the United States in that action. Meanwhile, public discourse, in part generated and intensified by the cam­paigns of the GOP candidates for president and consequent media coverage, addressed issues dividing Americans, including health care, women's rights to reproductive health services, the freedom of churches and church-run organiza­tions to remain true to their beliefs in providing (or electing not to provide) health care services which they oppose, the growing gap between the wealthiest 1 percent of Americans and the rest of the American population, and continued high levels of unemployment. More division among the American public would be hard to imagine. Yet through all the tension, conflict was almost entirely ver­bal in nature, aimed at discovering or advocating solutions to growing problems. Individuals also faced daunting decisions. A young couple, underwater with their mortgage and struggling to make their monthly payments, considered walking away from their loan; elsewhere a college sophomore reconsidered his major and a senior her choice of law school, graduate school, or a job and a teenager decided between an iPhone and an iPad. Each of these situations called for decisions to be made. Each decision maker worked hard to make well-reasoned decisions. Decision making is a thoughtful process of choosing among a variety of options for acting or thinking. It requires that the decider make a choice. Life demands decision making. We make countless individual decisions every day. To make some of those decisions, we work hard to employ care and consider­ation: others scorn to just happen. Couples, families, groups of friends, and co­workers come together to make choices, and decision-making bodies from committees to juries to the U.S. Congress and the United Nations make deci­sions that impact us all. Every profession requires effective and ethical decision making, as do our school, community, and social organizations. We all engage in discourse surrounding our necessary decisions every day. To refinance or sell one’s home, to buy a high-performance SUV or an eco­nomical hybrid car, what major to select, what to have for dinner, what candi­date to vote for, paper or plastic, all present us with choices. Should the president deal with an international crisis through military invasion or diplomacy? How should the U.S. Congress act to address illegal immigration? Is the defendant guilty as accused? Should we watch The Daily Show or the ball game? And upon what information should I rely to make my decision? Certainly some of these decisions are more consequential than others. Which amendment to vote for, what television program to watch, what course to take, which phone plan to purchase, and which diet to pursue—all present unique challenges. At our best, we seek out research and data to inform our decisions. Yet even the choice of which information to attend to requires decision making. In 2006, Time magazine named YOU its "Person of the Year.” Congratulations! Its selection was based on the participation not of “great men” in the creation of his­tory, but rather on the contributions of a community of anonymous participants in the evolution of information. Through blogs, online networking, YouTube, Facebook, Twitter, Wikipedia, and many other “wikis," and social networking sites, knowledge and truth are created from the bottom up, bypassing the authoritarian control of newspeople, academics, and publishers. Through a quick keyword search, we have access to infinite quantities of information, but how do we sort through it and select the best information for our needs? Much of what suffices as information is not reliable, or even ethically motivated. The ability of every decision maker to make good, reasoned, and ethical deci­sions' relies heavily upon their ability to think critically. Critical thinking enables one to break argumentation down to its component parts in order to evaluate its relative validity and strength, And, critical thinking offers tools enabling the user to better understand the' nature and relative quality of the message under consider­ation. Critical thinkers are better users of information as well as better advocates. Colleges and universities expect their students to develop their critical thinking skills and may require students to take designated courses to that end. The importance and value of such study is widely recognized. The executive order establishing California's requirement states; Instruction in critical thinking is designed to achieve an understanding of the relationship of language to logic, which would lead to the ability to analyze, criticize and advocate ideas, to reason inductively and deductively, and to reach factual or judgmental conclusions based on sound inferences drawn from unambigu­ous statements of knowledge or belief. The minimal competence to be expected at the successful conclusion of instruction in critical thinking should be the ability to distinguish fact from judgment, belief from knowledge, and skills in elementary inductive arid deductive processes, including an under­standing of die formal and informal fallacies of language and thought. Competency in critical thinking is a prerequisite to participating effectively in human affairs, pursuing higher education, and succeeding in the highly com­petitive world of business and the professions. Michael Scriven and Richard Paul for the National Council for Excellence in Critical Thinking Instruction argued that the effective critical thinker: raises vital questions and problems, formulating them clearly and precisely; gathers and assesses relevant information, using abstract ideas to interpret it effectively; comes to well-reasoned conclusions and solutions, testing them against relevant criteria and standards; thinks open-mindedly within alternative systems of thought, recognizing, and assessing, as need be, their assumptions, implications, and practical con­sequences; and communicates effectively with others in figuring our solutions to complex problems. They also observed that critical thinking entails effective communication and problem solving abilities and a commitment to overcome our native egocentrism and sociocentrism,"1 Debate as a classroom exercise and as a mode of thinking and behaving uniquely promotes development of each of these skill sets. Since classical times, debate has been one of the best methods of learning and applying the principles of critical thinking. Contemporary research confirms the value of debate. One study concluded: The impact of public communication training on the critical thinking ability of the participants is demonstrably positive. This summary of existing research reaffirms what many ex-debaters and others in forensics, public speaking, mock trial, or argumentation would support: participation improves die thinking of those involved,2 In particular, debate education improves the ability to think critically. In a com­prehensive review of the relevant research, Kent Colbert concluded, "'The debate-critical thinking literature provides presumptive proof ■favoring a positive debate-critical thinking relationship.11'1 Much of the most significant communication of our lives is conducted in the form of debates, formal or informal, These take place in intrapersonal commu­nications, with which we weigh the pros and cons of an important decision in our own minds, and in interpersonal communications, in which we listen to argu­ments intended to influence our decision or participate in exchanges to influence the decisions of others. Our success or failure in life is largely determined by our ability to make wise decisions for ourselves and to influence the decisions of’ others in ways that are beneficial to us. Much of our significant, purposeful activity is concerned with making decisions. Whether to join a campus organization, go to graduate school, accept a job offer, buy a car or house, move to another city, invest in a certain stock, or vote for Garcia—these are just a few Of the thousands of deci­sions we may have to make. Often, intelligent self-interest or a sense of respon­sibility will require us to win the support of others. We may want a scholarship or a particular job for ourselves, a customer for our product, or a vote for our favored political candidate. Some people make decision by flipping a coin. Others act on a whim or respond unconsciously to “hidden persuaders.” If the problem is trivial—such as whether to go to a concert or a film—the particular method used is unimportant. For more crucial matters, however, mature adults require a reasoned methods of decision making. Decisions should be justified by good reasons based on accurate evidence and valid reasoning.

Argument and clash are possible despite different subject positions—a starting point of engagement is critical to reconcile identities with methods of change

Anderson 6

Amanda, Andrew W. Mellon Professor of Humanities and English at Brown University, Spring 2006, “Reply to My Critic(s),” Criticism, Vol. 48, No. 2, p. 281-290

MY RECENT BOOK, The Way We Argue Now, has in a sense two theses. In the first place, the book makes the case for the importance of debate and argument to any vital democratic or pluralistic intellectual culture. This is in many ways an unexceptional position, but the premise of the book is that the claims of reasoned argument are often trumped, within the current intellectual terrain, by appeals to cultural identity and what I gather more broadly under the rubric of ethos, which includes cultural identity but also forms of ethical piety and charismatic authority. In promoting argument as a universal practice keyed to a human capacity for communicative reason, my book is a critique of relativism and identity politics, or the notion that forms of cultural authenticity or group identity have a certain unquestioned legitimacy, one that cannot or should not be subjected to the challenges of reason or principle, precisely because reason and what is often called "false universalism" are, according to this pattern of thinking, always involved in forms of exclusion, power, or domination. My book insists, by contrast, that argument is a form of respect, that the ideals of democracy, whether conceived from a nationalist or an internationalist perspective, rely fundamentally upon procedures of argumentation and debate in order to legitimate themselves and to keep their central institutions vital. And the idea that one should be protected from debate, that argument is somehow injurious to persons if it does not honor their desire to have their basic beliefs and claims and solidarities accepted without challenge, is strenuously opposed. As is the notion that any attempt to ask people to agree upon processes of reason-giving argument is somehow necessarily to impose a coercive norm, one that will disable the free expression and performance of identities, feelings, or solidarities. Disagreement is, by the terms of my book, a form of respect, not a form of disrespect. And by disagreement, I don't mean simply to say that we should expect disagreement rather than agreement, which is a frequently voiced-if misconceived-criticism of Habermas. Of course we should expect disagreement. My point is that we should focus on the moment of dissatisfaction in the face of disagreement-the internal dynamic in argument that imagines argument might be the beginning of a process of persuasion and exchange that could end in agreement (or partial agreement). For those who advocate reconciling ourselves to disagreements rather than arguing them out, by contrast, there is a complacent-and in some versions, even celebratory-attitude toward fixed disagreement. Refusing these options, I make the case for dissatisfied disagreement in the final chapter of the book and argue that people should be willing to justify their positions in dialogue with one another, especially if they hope to live together in a post-traditional pluralist society. One example of the trumping of argument by ethos is the form that was taken by the late stage of the Foucault/Habermas debate, where an appeal to ethos-specifically, an appeal to Foucault's style of ironic or negative critique, often seen as most in evidence in the interviews, where he would playfully refuse labels or evade direct answers-was used to exemplify an alternative to the forms of argument employed by Habermas and like-minded critics. (I should pause to say that I provide this example, and the framing summary of the book that surrounds it, not to take up airtime through expansive self-reference, but because neither of my respondents provided any contextualizing summary of the book's central arguments, though one certainly gets an incremental sense of the book's claims from Bruce Robbins. Because I don't assume that readers of this forum have necessarily read the book, and because I believe that it is the obligation of forum participants to provide sufficient context for their remarks, I will perform this task as economically as I can, with the recognition that it might have carried more weight if provided by a respondent rather than the author.) The Foucauldian counter-critique importantly emphasizes a relation between style and position, but it obscures (1) the importance or value of the Habermasian critique and (2) the possibility that the other side of the debate might have its own ethos to advocate, one that has precisely to do with an ethos of argument, an ideal of reciprocal debate that involves taking distance on one's pre-given forms of identity or the norms of one's community, both so as to talk across differences and to articulate one's claims in relation to shared and even universal ideals. And this leads to the second thesis of the book, the insistence that an emphasis on ethos and character is interestingly present if not widely recognized in contemporary theory, and one of the ways its vitality and existential pertinence makes itself felt (even despite the occurrence of the kinds of unfair trumping moves I have mentioned). We often fail to notice this, because identity has so uniformly come to mean sociological, ascribed, or group identity-race, gender, class, nationality, ethnicity, sexuality, and so forth. Instances of the move toward character and ethos include the later Foucault (for whom ethos is a central concept), cosmopolitanism (whose aspiration it is to turn universalism into an ethos), and, more controversially, proceduralist ethics and politics (with its emphasis on sincerity and civility). Another version of this attentiveness to ethos and character appears in contemporary pragmatism, with its insistence on casualness of attitude, or insouciance in the face of contingency-recommendations that get elevated into full-fledged exemplary personae in Richard Rorty's notion of the "ironist" or Barbara Herrnstein Smiths portrait of the "postmodern skeptic." These examples-and the larger claim they support-are meant to defend theory as still living, despite the many reports of its demise, and in fact still interestingly and incessantly re-elaborating its relation to practice. This second aspect of the project is at once descriptive, motivated by the notion that characterology within theory is intrinsically interesting, and critical, in its attempt to identify how characterology can itself be used to cover or evade the claims of rational argument, as in appeals to charismatic authority or in what I identify as narrow personifications of theory (pragmatism, in its insistence on insouciance in the face of contingency, is a prime example of this second form). And as a complement to the critical agenda, there is a reconstructive agenda as well, an attempt to recuperate liberalism and proceduralism, in part by advocating the possibility, as I have suggested, of an ethos of argument. Robbins, in his extraordinarily rich and challenging response, zeroes in immediately on a crucial issue: who is to say exactly when argument is occurring or not, and what do we do when there is disagreement over the fundamentals (the primary one being over what counts as proper reasoning)? Interestingly, Robbins approaches this issue after first observing a certain tension in the book: on the one hand, The Way We Argue Now calls for dialogue, debate, argument; on the other, its project is "potentially something a bit stricter, or pushier: getting us all to agree on what should and should not count as true argument." What this point of entry into the larger issue reveals is a kind of blur that the book, I am now aware, invites. On the one hand, the book anatomizes academic debates, and in doing so is quite "debaterly" This can give the impression that what I mean by argument is a very specific form unique to disciplinary methodologies in higher education. But the book is not generally advocating a narrow practice of formal and philosophical argumentation in the culture at large, however much its author may relish adherence to the principle of non-contradiction in scholarly argument. I take pains to elaborate an ethos of argument that is linked to democratic debate and the forms of dissent that constitutional patriotism allows and even promotes. In this sense, while argument here is necessarily contextualized sociohistorically, the concept is not merely academic. It is a practice seen as integral to specific political forms and institutions in modern democracies, and to the more general activity of critique within modern societies-to the tradition of the public sphere, to speak in broad terms. Additionally, insofar as argument impels one to take distance on embedded customs, norms, and senses of given identity, it is a practice that at once acknowledges identity, the need to understand the perspectives of others, and the shared commitment to commonality and generality, to finding a way to live together under conditions of difference.

Dialogic democracy is the best way to dismantle racism—our vision of debate is the opposite of exclusion

Gooding-Williams 3

 Race, Multiculturalism and Democracy

Robert Gooding-Wiliams

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 Issue

Constellations

Volume 5, Issue 1, pages 18–41, March 1998

 I begin with the assumption that fostering the capacity for democratic deliber- ation is a central aim of public education in a democratic society.531 also follow a number of contemporary political theorists in supposing that democratic deliber- ation is a form of public reasoning geared towards adducing considerations that all parties to a given deliberation can find compelling.54 On this view, successful deliberation requires that co-deliberators cultivate a mutual understanding of the differences in conviction that divide them, so that they can formulate reasons (say for implementing or not implementing a proposed policy) that will be generally acceptable despite those differences.55 In the words of one theorist, "[deliberation encourages people with conflicting perspectives to understand each other's point of view, to minimize their moral disagreements, and to search for common ground."56 Lorenzo Simpson usefully glosses the pursuit of mutual understanding when he writes that it requires "a 'reversibility of perspectives,' not in the sense of my collapsing into yon or you into me, but in the sense that I try to understand - but not necessarily agree with - what you take your life to be about and you do the same for me . . . [i]n such a . . . mutual understanding you may come to alter the way in which you understand yourself and I . . . may find that listening to you leads me to alter my self-understanding."57 According to Simpson, the search for common ground need not leave us with the convictions with which we began. On the contrary, the process of democratic deliberation can be a source of self-trans- formation that enriches one's view of the issues at hand and even alters one's conception of the demands of social justice.58 In multicultural America, multicultural public education is a good that promotes mutual understanding across cultural differences, thereby fostering and strengthening citizens' capacities for democratic deliberation. In essence, multi- cultural education is a form of pedagogy whereby students study the histories and cultures of differently cultured fellow citizens, many of whose identities have a composite, multicultural character. More exactly, it is a form of cross-cultural hermeneutical dialogue, and therefore a way of entering into conversation with those histories and cultures.59 By disseminating the cultural capital of cross- cultural knowledge, multicultural education can cultivate citizens' abilities to "reverse perspectives." By facilitating mutual understanding, it can help them to shape shared vocabularies for understanding their moral and cultural identities and for finding common ground in their deliberations.60 By strengthening a student's ability to reverse perspectives, multicultural education may bolster her disposition to engage the self-understandings of differ- ently cultured others, even if the particulars of her multicultural education have not involved an engagement with the cultures of precisely those others (consider, e.g., someone whose multicultural education has included courses in Asian- American literatures, but who knows nothing of American Latino subcultures). Acquiring a know-how and a feel for cross-cultural hermeneutical conversation is likely to **reinforce a student's inclination to understand and learn from the self- interpretations of cultural "others"** in just the way that the cultivation of an athletic skill (e.g., the ability to "head" a soccer ball) tends to reinforce one's inclination to participate in the sports for which having that skill is an advantage (e.g. playing soccer). In the case of multicultural education, one cultivates a skill which is **motivationally conducive** to the sort of mutual understanding that is crit- ical to the flourishing of deliberative democracy in a multicultural society.61 Let me summarize my argument so far. In contrast to Schlesinger. who yearns for a society 111 which the understanding of key political ideals remains immune from deliberative debate animated by cultural and other group differences, I have been suggesting that deliberative debate of this sort is an appropriate medium for seeking and forging common grounds and ideals. I have also been arguing (1) that a commitment to deliberative democracy in multicultural America entails a commitment to promoting the mutual understanding of differences through cross-cultural dialogue and (2) that such a commitment justifies the institution of multicultural education. The promotion of mutual understanding avoids Schlesinger's and Asante's kitsch, because it is not predicated off an imperative to preserve an uncomplicated national or ethnic identity in the face of cultural and social complexity. Indeed, the ideal of mutual understanding invites increasing complexity by suggesting that cross-cultural educational insights, since they can effect changes in the self-understandings of persons who have benefitted from a multicultural education, may alter and further complicate those persons' identities, perhaps making them more multicultural. In what follows, I further explore the implications of this ideal by proposing that a commitment to deliberative democracy in multicultural America justifies a form of multicultural education that is, specifically race-conscious.

Switching sides activates critique

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(Ruth, “Discourse, power, and energy conflicts: understanding Welsh renewable energy planning policy,” *Environment and Planning C: Government and Policy*, Volume 27, p. 512-526)

It could be argued that this result arose from the lack of expertise of the convenors of the TAN 8 in consensual decision making. Indeed, there is now more research and advice on popular participation in policy issues at a community level (eg Kaner et al, 1996; Ostrom, 1995; Paddison, 1999). However, for policy making the state remains the vehicle through which policy goals must be achieved (Rydin, 2003) and it is through the state that global issues such as climate change and sustainable development must be legislated for, and to some extent enacted. It is therefore through this structure that any consensual decision making must be tested. This research indicates that the policy process cannot actually overcome contradictions and conflict. Instead, **encompassing them may well be a more fruitful way forward than attempts at consensus.** Foucault reinforces the notion that the `field of power' can prove to be positive both for individuals and for the state by allowing both to act (Darier, 1996; Foucault, 1979). Rydin (2003) suggests that actors can be involved in policy making but through `deliberative' policy making rather than aiming for consensus: ``the key to success here is not consensus but building a position based on divergent positions'' (page 69). Deliberative policy making for Rydin involves: particular dialogic mechanisms such as speakers being explicit about their values, understandings, and activities: the need to move back and forth between memories (historical) and aspirations (future); moving between general and the particular; and the adoption of role taking (sometimes someone else's role). There is much to be trialed and tested in these deliberative models, however, a strong state is still required as part of the equation if we are to work in the interests of global equity, at least until the messages about climate change and sustainable development are strong enough to filter through to the local level. It is at the policy level that the usefulness of these various new techniques of deliberative policy making must be tested, and at the heart of this must be an understanding of the power rationalities at work in the process.

Analysis of policy is particularly empowering, even if we’re not the USFG

**Shulock 99**

Nancy, PROFESSOR OF PUBLIC POLICY --- professor of Public Policy and Administration and director of the Institute for Higher Education Leadership & Policy (IHELP) at Sacramento State University, The Paradox of Policy Analysis: If It Is Not Used, Why Do We Produce So Much of It?, Journal of Policy Analysis and Management, Vol. 18, No. 2, 226–244 (1999)

In my view, none of these radical changes is necessary. **As interesting as our politics might be with the kinds of changes outlined by proponents of** participatory and **critical policy analysis,** **we do not need these changes to justify our investment in policy analysis.** **Policy analysis already involves discourse, introduces ideas** into politics, **and affects policy outcomes**. The problem is not that policymakers refuse to understand the value of traditional policy analysis or that policy analysts have not learned to be properly interactive with stakeholders and reflective of multiple and nontechnocratic perspectives. The problem, in my view, is only that policy analysts, policymakers, and observers alike do not recognize policy analysis for what it is. **Policy analysis has changed**, right along with the policy process, to become the provider of ideas and frames, to help sustain the discourse that shapes citizen preferences, and to provide the appearance of rationality in an increasingly complex political environment. Regardless of what the textbooks say, there does not need to be a client in order for ideas from policy analysis to resonate through the policy environment.10¶ Certainly there is room to make our politics more inclusive. But **those critics who see policy analysis as a tool of the power elite might be less concerned if they understood that analysts are only adding to the debate**—they are unlikely to be handing ready-made policy solutions to elite decisionmakers for implementation. Analysts themselves might be more contented if they started appreciating the appropriation of their ideas by the whole gamut of policy participants and stopped counting the number of times their clients acted upon their proposed solutions. And **the cynics disdainful of the purported objectivism of analysis might relax if analysts themselves would acknowledge that they are seeking not truth**, **but to elevate the level of debate with a compelling, evidence-based presentation of their perspectives. Whereas critics call**, **unrealistically** in my view, **for analysts to** present competing perspectives on an issue or to “**design a discourse among multiple perspectives,” I see no reason why an individual analyst must do this** when multiple perspectives are already in abundance, brought by multiple analysts. If we would acknowledge that policy analysis does not occur under a private, contractual process whereby hired hands advise only their clients, we would not worry that clients get only one perspective.¶ **Policy analysis is used, far more extensively than is commonly believed**. Its **use could be appreciated and expanded if policymakers, citizens, and analysts themselves began to present it more accuratel**y, not as a comprehensive, problem-solving, scientific enterprise, but **as a contributor to informed discourse**. For years Lindblom [1965, 1968, 1979, 1986, 1990] has argued that we should understand policy analysis for the limited tool that it is—just one of several routes to social problem solving, and an inferior route at that. Although I have learned much from Lindblom on this odyssey from traditional to interpretive policy analysis, my point is different. Lindblom sees analysis as having a very limited impact on policy change due to its ill-conceived reliance on science and its deluded attempts to impose comprehensive rationality on an incremental policy process. I, with the benefit of recent insights of Baumgartner, Jones, and others into the dynamics of policy change, see that **even with** these **limitations, policy analysis can have a major impact on policy. Ideas, aided by institutions and embraced by citizens, can reshape the policy landscape. Policy analysis can supply the ideas.**

Prefer specificity—simulation about war powers is uniquely empowering

Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11/13, National Security Law Pedagogy and the Role of Simulations, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

2. Factual Chaos and Uncertainty

One of the most important skills for students going into national security law is the ability to deal with factual chaos. The presentation of factual chaos significantly differs from the traditional model of legal education, in which students are provided a set of facts which they must analyze. Lawyers working in national security law must figure out what information they need, integrate enormous amounts of data from numerous sources, determine which information is reliable and relevant, and proceed with analysis and recommendations. Their recommendations, moreover, must be based on contingent conditions: facts may be classified and unavailable to the legal analyst, or facts may change as new information emerges. This is as true for government lawyers as it is for those outside of governmental structures. They must be aware of what is known, what is unsure, what is unknown, and the possibility of changing circumstances, and they must advise their clients, from the beginning, how the legal analysis might shift if the factual basis alters. a. Chaos. Concern about information overload in the national security environment is not new: in the 1970s scholars discussed and debated how to handle the sequential phases of intelligence gathering and analysis in a manner that yielded an optimal result.132 But the digital revolution has exponentially transformed the quantitative terms of reference, the technical means of collection and analysis, and the volume of information available. The number of sources of information – not least in the online world – is staggering. Added to this is the rapid expansion in national security law itself: myriad new Executive Orders, Presidential Directives, institutions, programs, statutes, regulations, lawsuits, and judicial decisions mean that national security law itself is rapidly changing. Lawyers inside and outside of government must keep abreast of constantly evolving authorities. The international arena too is in flux, as global entities, such as the United Nations, the European Court of Human Rights, the G-7/G-8, and other countries, introduce new instruments whose reach includes U.S. interests. Rapid geopolitical changes relating to critical national security concerns, such as worldwide financial flows, the Middle East, the Arab Spring, South American drug cartels, North Korea, the former Soviet Union, China, and other issues require lawyers to keep up on what is happening globally as a way of understanding domestic concerns. Further expanding the information overload is the changing nature of what constitutes national security itself.133 In sum, the sheer amount of information the national security lawyer needs to assimilate is significant. The basic skills required in the 1970s thus may be similar – such as the ability (a) to know where to look for relevant and reliable information; (b) to obtain the necessary information in the most efficient manner possible; (c) to quickly discern reliable from unreliable information; (d) to know what data is critical; and (e) to ascertain what is as yet unknown or contingent on other conditions. But the volume of information, the diversity of information sources, and the heavy reliance on technology requires lawyers to develop new skills. They must be able to obtain the right information and to ignore chaos to focus on the critical issues. These features point in opposite directions – i.e., a broadening of knowledge and a narrowing of focus. A law school system built on the gradual and incremental advance of law, bolstered or defeated by judicial decisions and solidified through the adhesive nature of stare decisis appears particularly inapposite for this rapidly-changing environment. An important question that will thus confront students upon leaving the legal academy is how to keep abreast of rapidly changing national security and geopolitical concerns in an information-rich world in a manner that allows for capture of relevant information, while retaining the ability to focus on the immediate task at hand. Staying ahead of the curve requires developing a sense of timing – when to respond to important legal and factual shifts – and identifying the best means of doing so. Again, this applies to government and non-government employees. How should students prioritize certain information and then act upon it? This, too, is an aspect of information overload. b. Uncertainty. National security law proves an information-rich, factuallydriven environment. The ability to deal with such chaos may be hampered by gaps in the information available and the difficulty of engaging in complex fact-finding – a skill often **under-taught** in law school. Investigation of relevant information may need to reach far afield in order to generate careful legal analysis. Uncertainty here plays a key role. In determining, for instance, the contours of quarantine authority, lawyers may need to understand how the pandemic in question works, where there have been outbreaks, how it will spread, what treatments are available, which social distancing measures may prove most effective, what steps are being taken locally, at a state-level, and internationally, and the like. Lawyers in non-profit organizations, legal academics, in-house attorneys, and others, in turn, working in the field, must learn how to find out the relevant information before commenting on new programs and initiatives, agreeing to contractual terms, or advising clients on the best course of action. For both government and non-government lawyers, the secrecy inherent in the field is of great consequence. The key here is learning to ask intelligent questions to generate the best legal analysis possible. It may be the case that national security lawyers are not aware of the facts they are missing – facts that would be central to legal analysis. This phenomenon front-loads the type of advice and discussions in which national security lawyers must engage. It means that analysis must be given in a transparent manner, contingent on a set of facts currently known, with indication given up front as to how that analysis might change, should the factual basis shift. This is particularly true of government attorneys, who may be advising policymakers who may or may not have a background in the law and who may have access to more information than the attorney. Signaling the key facts on which the legal decision rests with the caveat that the legal analysis of the situation might change if the facts change, provides for more robust consideration of critically important issues. c. Creative Problem Solving. Part of dealing with factual uncertainty in a rapidly changing environment is learning how to construct new ways to address emerging issues. Admittedly, much has been made in the academy about the importance of problem-based learning as a method in developing students’ critical thinking skills.134 Problem-solving, however, is not merely a method of teaching. It is itself a goal for the type of activities in which lawyers will be engaged. The means-ends distinction is an important one to make here. Problemsolving in a classroom environment may be merely a conduit for learning a specific area of the law or a limited set of skills. But problem-solving as an end suggests the accumulation of a **broader set of tools,** such as familiarity with multidisciplinary approaches, creativity and originality, sequencing, collaboration, identification of contributors’ expertise, and how to leverage each skill set. This goal presents itself in the context of fact-finding, but it draws equally on strong understanding of legal authorities and practices, the Washington context, and policy considerations. Similarly, like the factors highlighted in the first pedagogical goal, adding to the tensions inherent in factual analysis is the abbreviated timeline in which national security attorneys must operate. Time may not be a commodity in surplus. This means that national security legal education must not only develop students’ complex fact-finding skills and their ability to provide contingent analysis, but it must teach them how to **swiftly and efficiently engage** in these activities. 3. Critical Distance As was recognized more than a century ago, analytical skills by themselves are insufficient training for individuals moving into the legal profession.135 Critical thinking provides the necessary distance from the law that is required in order to move the legal system forward. Critical thought, influenced by the Ancient Greek tradition, finds itself bound up in the Socratic method of dialogue that continues to define the legal academy. But it goes beyond such constructs as well. Scholars and educators disagree, of course, on what exactly critical thinking entails.136 For purposes of our present discussion, I understand it as the metaconversation in the law. Whereas legal analysis and substantive knowledge focus on the law as it is and how to work within the existing structures, critical thought provides distance and allows students to engage in purposeful discussion of theoretical constructs that deepen our understanding of both the actual and potential constructs of law. It is inherently reflective. For the purpose of practicing national security law, critical thought is paramount. This is true partly because of the unique conditions that tend to accompany the introduction of national security provisions: these are often introduced in the midst of an emergency. Their creation of new powers frequently has significant implications for distribution of authority at a federal level, a diminished role for state and local government in the federalism realm, and a direct impact on individual rights.137 Constitutional implications demand careful scrutiny. Yet at the time of an attack, enormous pressure is on officials and legislators to act and to be seen to act to respond.138 With the impact on rights, in particular, foremost in legislators’ minds, the first recourse often is to make any new powers temporary. However, they rarely turn out to be so, instead becoming embedded in the legislative framework and providing a baseline on which further measures are built.139 In order to withdraw them, legislators must demonstrate either that the provisions are not effective or that no violence will ensue upon their withdrawal (either way, a demanding proof). Alternatively, legislators would have to acknowledge that some level of violence may be tolerated – a step no politician is willing to take. Any new powers, introduced in the heat of the moment, may become a permanent part of the statutory and regulatory regime. They may not operate the way in which they were intended. They may impact certain groups in a disparate manner. They may have unintended and detrimental consequences. Therefore, it is necessary for national security lawyers to be able to view such provisions, and related policy decisions, from a distance and to be able to think through them outside of the contemporary context. There are many other reasons such critical analysis matters that reflect in other areas of the law. The ability to recognize problems, articulate underlying assumptions and values, understand how language is being used, assess whether argument is logical, test conclusions, and determine and analyze pertinent information depends on critical thinking skills. Indeed, one could draw argue that it is the goal of higher education to build the capacity to engage in critical thought. **Deeply humanistic theories underlie this approach**. The ability to develop discerning judgment – the very meaning of the Greek term, 􏰀􏰁􏰂􏰃􏰄􏰅􏰆 – provides the basis for advancing the human condition through reason and intellectual engagement. Critical thought as used in practicing national security law may seem somewhat antithetical to the general legal enterprise in certain particulars. For government lawyers and consultants, there may be times in which not providing legal advice, when asked for it, may be as important as providing it. That is, it may be important not to put certain options on the table, with legal justifications behind them. Questions whether to advise or not to advise are bound up in considerations of policy, professional responsibility, and ethics. They may also relate to questions as to who one’s client is in the world of national security law.140 It may be unclear whether and at what point one’s client is a supervisor, the legal (or political) head of an agency, a cross-agency organization, the White House, the Constitution, or the American public. Depending upon this determination, the national security lawyer may or may not want to provide legal advice to one of the potential clients. Alternatively, such a lawyer may want to call attention to certain analyses to other clients. Determining when and how to act in these circumstances requires critical distance. 4. Nontraditional Written and Oral Communication Skills Law schools have long focused on written and oral communication skills that are central to the practice of law. Brief writing, scholarly analysis, criminal complaints, contractual agreements, trial advocacy, and appellate arguments constitute standard fare. What is perhaps unique about the way communication skills are used in the national security world is the importance of non-traditional modes of legal communication such as concise (and precise) oral briefings, email exchanges, private and passing conversations, agenda setting, meeting changed circumstances, and communications built on swiftly evolving and uncertain information. For many of these types of communications speed may be of the essence – and unlike the significant amounts of time that accompany preparation of lengthy legal documents (and the painstaking preparation for oral argument that marks moot court preparations.) Much of the activity that goes on within the Executive Branch occurs within a hierarchical system, wherein those closest to the issues have exceedingly short amounts of time to deliver the key points to those with the authority to exercise government power. Unexpected events, shifting conditions on the ground, and deadlines require immediate input, without the opportunity for lengthy consideration of the different facets of the issue presented. This is a different type of activity from the preparation of an appellate brief, for instance, involving a fuller exposition of the issues involved. It is closer to a blend of Supreme Court oral argument and witness crossexamination – although national security lawyers often may not have the luxury of the months, indeed, years, that cases take to evolve to address the myriad legal questions involved. Facts on which the legal analysis rests, moreover, as discussed above, may not be known. This has substantive implications for written and oral communications. Tension between the level of legal analysis possible and the national security process itself may lead to a different norm than in other areas of the law. Chief Judge Baker explains, If lawyers insist on knowing all the facts all the time, before they are willing to render advice, or, if they insist on preparing a written legal opinion in response to every question, then national security process would become dysfunctional. The delay alone would cause the policymaker to avoid, and perhaps evade, legal review.141 Simultaneously, lawyers cannot function without some opportunity to look carefully at the questions presented and to consult authoritative sources. “The art of lawyering in such context,” Baker explains, “lies in spotting the issue, accurately identifying the timeline for decision, and applying a meaningful degree of formal or informal review in response.”142 The lawyer providing advice must resist the pressure of the moment and yet still be responsive to the demand for swift action. The resulting written and oral communications thus may be shaped in different ways. Unwilling to bind clients’ hands, particularly in light of rapidly-changing facts and conditions, the potential for nuance to be lost is considerable. The political and historical overlay of national security law here matters. In some circumstances, even where written advice is not formally required, it may be in the national security lawyer’s best interests to commit informal advice to paper in the form of an email, notation, or short memo. The process may serve to provide an external check on the pressures that have been internalized, by allowing the lawyer to separate from the material and read it. It may give the lawyer the opportunity to have someone subject it to scrutiny. Baker suggests that “on issues of importance, even where the law is clear, as well as situations where novel positions are taken, lawyers should record their informal advice in a formal manner so that they may be held accountable for what they say, and what they don’t say.”143 Written and oral communication may occur at highly irregular moments – yet it is at these moments (in the elevator, during an email exchange, at a meeting, in the course of a telephone call), that critical legal and constitutional decisions are made. This model departs from the formalized nature of legal writing and research. Yet it is important that students are prepared for these types of written and oral communication as an ends in and of themselves. 5. Leadership, Integrity and Good Judgment National security law often takes place in a high stakes environment. There is tremendous pressure on attorneys operating in the field – not least because of the coercive nature of the authorities in question. The classified environment also plays a key role: many of the decisions made will never be known publicly, nor will they be examined outside of a small group of individuals – much less in a court of law. In this context, leadership, integrity, and good judgment stand paramount. The types of powers at issue in national security law are among the most coercive authorities available to the government. Decisions may result in the death of one or many human beings, the abridgment of rights, and the bypassing of protections otherwise incorporated into the law. The amount of pressure under which this situation places attorneys is of a higher magnitude than many other areas of the law. Added to this pressure is the highly political nature of national security law and the necessity of understanding the broader Washington context, within which individual decision-making, power relations, and institutional authorities compete. Policy concerns similarly dominate the landscape. It is not enough for national security attorneys to claim that they simply deal in legal advice. Their analyses carry consequences for those exercising power, for those who are the targets of such power, and for the public at large. The function of leadership in this context may be more about process than substantive authority. It may be a willingness to act on critical thought and to accept the impact of legal analysis. It is closely bound to integrity and professional responsibility and the ability to retain good judgment in extraordinary circumstances. Equally critical in the national security realm is the classified nature of so much of what is done in national security law. All data, for instance, relating to the design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of nuclear material in the production of energy is classified from birth.144 NSI, the bread and butter of the practice of national security law, is similarly classified. U.S. law defines NSI as “information which pertains to the national defense and foreign relations (National Security) of the United States and is classified in accordance with an Executive Order.” Nine primary Executive Orders and two subsidiary orders have been issued in this realm.145 The sheer amount of information incorporated within the classification scheme is here relevant. While original classification authorities have steadily decreased since 1980, and the number of original classification decisions is beginning to fall, the numbers are still high: in fiscal year 2010, for instance, there were nearly 2,300 original classification authorities and almost 225,000 original classification decisions.146 The classification realm, moreover, in which national security lawyers are most active, is expanding. Derivative classification decisions – classification resulting from the incorporation, paraphrasing, restating, or generation of classified information in some new form – is increasing. In FY 2010, there were more than seventy-six million such decisions made.147 This number is triple what it was in FY 2008. Legal decisions and advice tend to be based on information already classified relating to programs, initiatives, facts, intelligence, and previously classified legal opinions. The key issue here is that with so much of the essential information, decisionmaking, and executive branch jurisprudence necessarily secret, lawyers are limited in their opportunity for outside appraisal and review. Even within the executive branch, stove-piping occurs. The use of secure compartmentalized information (SCI) further compounds this problem as only a limited number of individuals – much less lawyers – may be read into a program. This diminishes the opportunity to identify and correct errors or to engage in debate and discussion over the law. Once a legal opinion is drafted, the opportunity to expose it to other lawyers may be restricted. The effect may be felt for decades, as successive Administrations reference prior legal decisions within certain agencies. The Office of Legal Counsel, for instance, has an entire body of jurisprudence that has never been made public, which continues to inform the legal analysis provided to the President. Only a handful of people at OLC may be aware of the previous decisions. They are prevented by classification authorities from revealing these decisions. This results in a sort of generational secret jurisprudence. Questions related to professional responsibility thus place the national security lawyer in a difficult position: not only may opportunities to check factual data or to consult with other attorneys be limited, but the impact of legal advice rendered may be felt for years to come. The problem extends beyond the executive branch. There are limited opportunities, for instance, for external judicial review. Two elements are at work here: first, very few cases involving national security concerns make it into court. Much of what is happening is simply not known. Even when it is known, it may be impossible to demonstrate standing – a persistent problem with regard to challenging, for instance, surveillance programs. Second, courts have historically proved particularly reluctant to intervene in national security matters. Judicially-created devices such as political question doctrine and state secrets underscore the reluctance of the judiciary to second-guess the executive in this realm. The exercise of these doctrines is increasing in the post-9/11 environment. Consider state secrets. While much was made of some five to seven state secrets cases that came to court during the Bush administration, in more than 100 cases the executive branch formally invoked state secrets, which the courts accepted.148 Many times judges did not even bother to look at the evidence in question before blocking it and/or dismissing the suit. In numerous additional cases, the courts treated the claims as though state secrets had been asserted – even where the doctrine had not been formally invoked.149 In light of these pressures – the profound consequences of many national security decisions, the existence of stovepiping even within the executive branch, and limited opportunity for external review – the practice of national security law requires a particularly rigorous and committed adherence to ethical standards and professional responsibility. This is a unique world in which there are enormous pressures, with potentially few external consequences for not acting in accordance with high standards. **It thus becomes particularly important, from a pedagogical perspective, to think through the types of situations that national security attorneys may face, and to address the types of questions** related to professional responsibility **that will confront them** in the course of their careers. Good judgment and leadership similarly stand paramount. These skills, like many of those discussed, may also be relevant to other areas of the law; however, the way in which they become manifest in national security law may be different in important ways. Good judgment, for instance, may mean any number of things, depending upon the attorney’s position within the political hierarchy. Policymaking positions will be considerably different from the provision of legal advice to policymakers. Leadership, too, may mean something different in this field intimately tied to political circumstance. It may mean breaking ranks with the political hierarchy, visibly adopting unpopular public or private positions, or resigning when faced by unethical situations. It may mean creating new bureaucratic structures to more effectively respond to threats. It may mean holding off clients until the attorneys within one’s group have the opportunity to look at issues while still being sensitive to the political needs of the institution. Recourse in such situations may be political, either through public statements and use of the media, or by going to different branches of government for a solution. 6. Creating Opportunities for Learning In addition to the above skills, national security lawyers must be able to engage in continuous self-learning in order to improve their performance. They must be able to identify new and emerging legal and political authorities and processes, systems for handling factual chaos and uncertainty, mechanisms to ensure critical distance, evaluating written and oral performance, and analyzing leadership skills. Law schools do not traditionally focus on how to teach students to continue their learning beyond the walls of academia. Yet **it is vital for their future success to give students the ability to** create conditions of learning.

### 1nc—panthers

Black panther tactics get crushed by the state security apparatus

**Emery 7**, Phd, (Kathy, “ The Limits of Violent Resistance,” For the Western Edition, August 27, 2007 http://www.educationanddemocracy.org/Emery/westernedition/Sept07WestEd.pdf)

The August 15th editorial for SF Bayview concluded that the only way to stop gentrification in the Bayview is to “go to war.” Through all our marching and complaining and testifying at City Hall, our “City Fathers” still aren’t listening. At this point, sadly, I don’t think for a minute that anything is going to change if we continue to go the Martin route. I think we need **to channel Malcolm and the Panthers**—and start making some moves instead of making some noise. I need some soldiers on my side, and as much as I am sure that there are people who are willing to protest, I need some people next to me who are willing to go to war. By any means necessary. To me, the really sad thing, is that the editorialist, Ebony Sparks, believes that there are only two “routes” or means of opposition to the dominant/white power structure—that pursued by Martin Luther King Jr’s Southern Christian Leadership Conference or that pursued by Malcolm X and West Coast Black Panther Parties. Sparks apparently lumps the very different strategies employed by SNCC (Student Nonviolent Coordinating Committee) and CORE (Congress of Racial Equality) into those employed by the SCLC and NAACP. She also assumes that “marching, and complaining and testifying” is what constitutes the full range of tactics employed by the SCLC. This could not be further from the truth. While I am completely sympathetic and share Sparks’ impatience with the lack of people power in the Bay Area, I think **she does not appreciate the severe limitations** and ramifications **of violent resistance to the powers-that-be**. In fact, any attempts to resist gentrification violently would be used as an excuse to make all the “undesirable” Bayview residents disappear that much more quickly. The state, especially **in the era of Homeland Security and the Patriot Act, can out-gun, out-infiltrate, and out-manipulate any individual or group of people. To “go to war” with City Hall is to attack it at it’s strongest point, a suicidal Pickett’s Charge,** if you will.

Vote neg – the result is end runs around the legal system culminating in the worst manifestations of counterterrorism

**Flaherty 5**

http://cryptogon.com/docs/pirate\_insurgency.html

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 In order to understand the national security implications of militant electronic piracy, an examination of conventional insurgency against the American Corporate State is necessary.

THE NATURE OF ARMED INSURGENCY AGAINST THE ACS Any violent insurgency against the ACS is sure to fail **and will only serve to enhance the state's power**. The major flaw of violent insurgencies, both cell based (Weathermen Underground, **Black Panthers,** Aryan Nations etc.) and leaderless (Earth Liberation Front, People for the Ethical Treatment of Animals, etc.) is that they are attempting to attack the system using the same tactics the ACS has already mastered: terror and psychological operations. The ACS attained primacy through the effective application of terror and psychological operations. Therefore, it has far more skill and experience in the use of these tactics than any upstart could **ever** hope to attain.4 **This makes the ACS impervious to traditional insurgency tactics.**  - Political Activism and the ACS Counterinsurgency Apparatus The ACS employs a full time counterinsurgency infrastructure with resources that are **unimaginable** to most would be insurgents. Quite simply, violent insurgents have **no idea** of just how powerful the foe actually is. Violent insurgents typically start out as peaceful, idealistic, political activists. Whether or not political activists know it, even with very mundane levels of political activity, they are engaging in low intensity conflict with the ACS. The U.S. military classifies political activism as “low intensity conflict.” The scale of warfare (in terms of intensity) begins with individuals distributing anti-government handbills and public gatherings with anti-government/anti-corporate themes. In the middle of the conflict intensity scale are what the military refers to as Operations Other than War; an example would be the situation the U.S. is facing in Iraq. At the upper right hand side of the graph is global thermonuclear war. What is important to remember is that the military is concerned with ALL points along this scale because they represent different types of threats to the ACS. Making distinctions between civilian law enforcement and military forces, and foreign and domestic intelligence services is no longer necessary. After September 11, 2001, **all national security assets would be brought to bear against any U.S. insurgency movement.** Additionally, the U.S. military established NORTHCOM which designated the U.S. as an active military operational area. Crimes involving the loss of corporate profits will increasingly be treated as acts of terrorism and could garner anything from a local law enforcement response to activation of regular military forces. Most of what is commonly referred to as “political activism” is viewed by the corporate state's counterinsurgency apparatus as a useful and necessary component of political control. Letters-to-the-editor... Calls-to-elected-representatives... Waving banners... “Third” party political activities... Taking beatings, rubber bullets and tear gas from riot police in free speech zones... Political activism amounts to an utterly useless waste of time, in terms of tangible power, which is all the ACS understands. Political activism is a cruel guise that is sold to people who are dissatisfied, but who have no concept of the nature of tangible power. Counterinsurgency teams routinely monitor these activities, attend the meetings, join the groups and take on leadership roles in the organizations. It's only a matter of time before some individuals determine that political activism is a honeypot that accomplishes nothing and wastes their time. The corporate state knows that some small percentage of the peaceful, idealistic, political activists will eventually figure out the game. At this point, the clued-in activists will probably do one of two things; drop out or move to escalate the struggle in other ways. If the clued-in activist drops his or her political activities, the ACS wins. But what if the clued-in activist refuses to give up the struggle? Feeling powerless, desperation could set in and these individuals might become increasingly radicalized. Because the corporate state's counterinsurgency operatives have infiltrated most political activism groups, the radicalized members will be easily identified, monitored and eventually compromised/turned, arrested or executed. The ACS wins again.

### 1nc—case

Progressivism is possible, and it depends on effective decision-making, so T turns the case

Clark, professor of law – Catholic University, ‘95

(Leroy D., 73 Denv. U.L. Rev. 23)

I must now address the thesis that there has been no evolutionary progress for blacks in America. Professor Bell concludes that blacks improperly read history if we believe, as Americans in general believe, that progress--racial, in the case of blacks--is "linear and evolutionary." n49 According to Professor Bell, the "American dogma of automatic progress" has never applied to blacks. n50 Blacks will never gain full equality, and "even those herculean efforts we hail as successful will produce no more than temporary 'peaks of progress,' short-lived victories that slide into irrelevance." n51

Progress toward reducing racial discrimination and subordination has never been "automatic," if that refers to some natural and inexorable process without struggle. Nor has progress ever been strictly "linear" in terms of unvarying year by year improvement, because the combatants on either side of the equality struggle have varied over time in their **energies, resources, capacities, and** the quality of their plans. Moreover, neither side could predict or control all of the variables which accompany progress or non-progress; some factors, like World War II, occurred in the international arena, and were not exclusively under American control.

With these qualifications, and a long view of history, blacks and their white allies achieved two profound and qualitatively different leaps forward toward the goal of equality: the end of slavery, and the Civil Rights Act of 1964. Moreover, despite open and, lately, covert resistance, black progress has never been shoved back, in a qualitative sense, to the powerlessness and abuse of periods preceding these leaps forward. n52

Structural antagonism destroys progressivism and re-entrenches racism—we can acknowledge every problem with the status quo, but adopt a pragmatic orientation towards solutions

Clark, professor of law – Catholic University, ‘95

(Leroy D., 73 Denv. U.L. Rev. 23)

A Final Word

Despite Professor Bell's prophecy of doom, I believe he would like to have his analysis proven wrong. However, he desperately leans on a tactic from the past--laying out the disabilities of the black condition and accusing whites of not having the moral strength to act fairly. That is the ultimate theme in both of his books and in much of his law review writing. That tactic not only lacks full force against today's complex society, it also becomes, for many whites, an exaggerated claim that racism is the sole cause of black misfortunes. n146 Many whites may feel about the black condition what many of us may have felt about the homeless: dismayed, but having no clear answer as to how the problem is to be solved, and feeling individually powerless if the resolution calls for massive resources that we, personally, lack. Professor Bell's two books may confirm this sense of powerlessness in whites with a limited background in this subject, because Professor **Bell does not offer a single programmatic approach** toward changing the circumstance of blacks. He presents only startling, unanalyzed prophecies of doom, which will easily garner attention from a controversy-hungry media. n147

It is much harder to exercise imagination to create viable strategies for change. n148 Professor Bell sensed the despair that the average--especially average black--reader would experience, so he put forth rhetoric urging an "unremitting struggle that leaves no room for giving up." n149 His contention is ultimately hollow, given the total sweep of his work.

At some point it becomes dysfunctional to refuse giving any credit to the very positive abatements of racism that occurred with white support, and on occasion, white leadership. Racism thrives in an atmosphere of insecurity, apprehension about the future, and inter-group resentments. Unrelenting, unqualified accusations only add to that negative atmosphere. Empathetic and more generous responses are possible in an atmosphere of support, security, and a sense that advancement is possible; the greatest progress of blacks occurred during the 1960s and early 1970s when the economy was expanding. Professor Bell's "analysis" is really only accusation and "harassing white folks," and is undermining and destructive. There is no love--except for his own group--and there is a constricted reach for an understanding of whites. There is only rage and perplexity. No bridges are built--only righteousness is being sold.

A people, black or white, are capable only to the extent they believe they are. Neither I, nor Professor Bell, have a crystal ball, but I do know that creativity and a drive for change are very much linked to a belief that they are needed, and to a belief that they can make a difference. The future will be shaped by past conditions and the actions of those over whom we have no control. Yet it is not fixed; it will also be shaped by the attitudes and energy with which we face the future. Writing about race is to engage in a power struggle. It is a non-neutral political act, and one must take responsibility for its consequences. Telling whites that they are irremediably racist is not mere "information"; it is a force that helps create the future it predicts. If whites believe the message, feelings of futility could overwhelm any further efforts to seek change. I am encouraged, however, that the motto of the most articulate black spokesperson alive today, Jesse Jackson, is, "Keep hope alive!" and that much of the strength of Martin Luther King, Jr. was his capacity to "dream" us toward a better place.

### 2nc

Arguments based purely in identity devolve into solipsism

David Bridges, Centre for Applied Research in Education, University of East Anglia, 2001, The Ethics of Outsider Research, Journal of Philosophy of Education, Vol. 35, No. 3

First, it is argued that only those who have shared in, and have been part of, a particular experience can understand or can properly understand (and perhaps `properly' is particularly heavily loaded here) what it is like. You need to be a woman to understand what it is like to live as a woman; to be disabled to understand what it is like to live as a disabled person etc. Thus Charlton writes of `the innate inability of able-bodied people, regardless of fancy credentials and awards, to understand the disability experience' (Charlton, 1998, p. 128).

Charlton's choice of language here is indicative of the rhetorical character which these arguments tend to assume. This arises perhaps from the strength of feeling from which they issue, but it warns of a need for caution in their treatment and acceptance. Even if able-bodied people have this `inability' it is difficult to see in what sense it is `innate'. Are all credentials `fancy' or might some (e.g. those reflecting a sustained, humble and patient attempt to grapple with the issues) be pertinent to that ability? And does Charlton really wish to maintain that there is a single experience which is the experience of disability, whatever solidarity disabled people might feel for each other?

The understanding that any of us have of our own conditions or experience is unique and special, though recent work on personal narratives also shows that it is itself multi-layered and inconstant, i.e. that we have and can provide many different understandings even of our own lives (see, for example, Tierney, 1993). Nevertheless, our own understanding has a special status: it provides among other things a data source for others' interpretations of our actions; it stands in a unique relationship to our own experiencing; and no one else can have quite the same understanding. It is also plausible that people who share certain kinds of experience in common stand in a special position in terms of understanding those shared aspects of experience. However, once this argument is applied to such broad categories as `women' or `blacks', it has to deal with some very heterogeneous groups; the different social, personal and situational characteristics that constitute their individuality may well outweigh the shared characteristics; and there may indeed be greater barriers to mutual understanding than there are gateways.

These arguments, however, all risk a descent into solipsism: if our individual understanding is so particular, how can we have communication with or any understanding of anyone else? But, granted Wittgenstein's persuasive argument against a private language (Wittgenstein, 1963, perhaps more straightforwardly presented in Rhees, 1970), **we cannot in these circumstances even describe or have any real understanding of our own condition in such an isolated world**. **Rather it is in talking to each other, in participating in a shared language, that we construct the conceptual apparatus that allows us to understand our own situation in relation to others,** and this is a construction which involves understanding differences as well as similarities.

Besides, we have good reason to treat with some scepticism accounts provided by individuals of their own experience and by extension accounts provided by members of a particular category or community of people. We know that such accounts can be riddled with special pleading, selective memory, careless error, self-centredness, myopia, prejudice and a good deal more. A lesbian scholar illustrates some of the pressures that can bear, for example, on an insider researcher in her own community:

As an insider, the lesbian has an important sensitivity to offer, yet she is also more vulnerable than the non-lesbian researcher, both to the pressure from the heterosexual world--that her studies conform to previous works and describe lesbian reality in terms of its relationship with the outside-and to pressure from the inside, from within the lesbian community itself--that her studies mirror not the reality of that community but its self-protective ideology. (Kreiger, 1982, p. 108)

In other words, while individuals from within a community have access to a particular kind of understanding of their experience, this does not automatically attach special authority (though it might attach special interest) to their own representations of that experience. Moreover, while we might acknowledge the limitations of the understanding which someone from outside a community (or someone other than the individual who is the focus of the research) can develop, this does not entail that they cannot develop and present an understanding or that such understanding is worthless. Individuals can indeed find benefit in the understandings that others offer of their experience in, for example, a counselling relationship, or when a researcher adopts a supportive role with teachers engaged in reflection on or research into their own practice. Many have echoed the plea of the Scottish poet, Robert Burns (in `To a louse'):

O wad some Pow'r the giftie gie us To see oursels as others see us!3

--**even if they might have been horrified with what such power revealed to them**. Russell argued that it was the function of philosophy (and why not research too?) `to suggest many possibilities which enlarge our thoughts and free them from the tyranny of custom . . .It keeps alive our sense of wonder by showing familiar things in an unfamiliar aspect' (Russell, 1912, p. 91). `Making the familiar strange', as Stenhouse called it, often requires the assistance of someone unfamiliar with our own world who can look at our taken-for-granted experience through, precisely, the eye of a stranger. Sparkes (1994) writes very much in these terms in describing his own research, as a white, heterosexual middleaged male, into the life history of a lesbian PE teacher. He describes his own struggle with the question `is it possible for heterosexual people to undertake research into homosexual populations?' but he concludes that being a `phenomenological stranger' who asks `dumb questions' may be a useful and illuminating experience for the research subject in that they may have to return to first principles in reviewing their story. This could, of course be an elaborate piece of self-justification, but it is interesting that someone like Max Biddulph, who writes from a gay/bisexual standpoint, can quote this conclusion with apparent approval (Biddulph, 1996).

People from outside a community clearly can have an understanding of the experience of those who are inside that community. It is almost certainly a different understanding from that of the insiders. Whether it is of any value will depend among other things on the extent to which they have immersed themselves in the world of the other and portrayed it in its richness and complexity; on the empathy and imagination that they have brought to their enquiry and writing; on whether their stories are honest, responsible and critical (Barone, 1992). Nevertheless, this value will also depend on qualities derived from the researchers' externality: their capacity to relate one set of experiences to others (perhaps from their own community); their outsider perspective on the structures which surround and help to define the experience of the community; on the reactions and responses to that community of individuals and groups external to it.4

Finally, it must surely follow that if we hold that a researcher, who (to take the favourable case) seeks honestly, sensitively and with humility to understand and to represent the experience of a community to which he or she does not belong, is incapable of such understanding and representation, then how can he or she understand either that same experience as mediated through the research of someone from that community? The argument which excludes the outsider from understanding a community through the effort of their own research, a fortiori excludes the outsider from that understanding through the secondary source in the form of the effort of an insider researcher or indeed any other means. Again, the point can only be maintained by insisting that a particular (and itself ill-defined) understanding is the only kind of understanding which is worth having.

The epistemological argument (that outsiders cannot understand the experience of a community to which they do not belong) becomes an ethical argument when this is taken to entail the further proposition that they ought not therefore attempt to research that community. I hope to have shown that this argument is based on a false premise. Even if the premise were sound, however, it would not necessarily follow that researchers should be prevented or excluded from attempting to understand this experience, unless it could be shown that in so doing they would cause some harm. This is indeed part of the argument emerging from disempowered communities and it is to this that I shall now turn.

III OUTSIDERS IMPORT DAMAGING FRAMEWORKS OF UNDERSTANDING

Frequent in the literature about research into disability, women's experience, race and homosexuality is the claim that people from outside these particular communities will import into their research, for example, homophobic, sexist or racist frameworks of understanding, which damage the interests of those being researched.

In the case of research into disability it has been argued that outsider researchers carry with them assumptions that the problem of disability lies with the disabled rather than with the society which frames and defines disability. `The essential problem of recent anthropological work on culture and disability is that it perpetuates outmoded beliefs and continues to distance research from lived oppression' (Charlton, 1998, p. 27). By contrast: `a growing number of people with disabilities have developed a consciousness that transforms the notion and concept of disability from a medical condition to a political and social condition' (Charlton, 1998, p.17). Charlton goes on to criticise, for example, a publication by Ingstad and Reynolds Whyte (1995), Disability and Culture. He claims that, although it does add to our understanding of how the conceptualisation and symbolisation of disability takes place, `its language is and perspective are still lodged in the past. In the first forty pages alone we find the words suffering, lameness, interest group, incapacitated, handicapped, deformities. Notions of oppression, dominant culture, justice, human rights, political movement, and selfdetermination are conspicuously absent' (Charlton, 1998 p. 27).

Discussing the neo-colonialism of outsider research into Maori experience, Smith extends this type of claim to embrace the wider methodological and metaphysical framing of outsider research: `From an indigenous perspective Western research is more than just research that is located in a positivist tradition. It is research which brings to bear, on any study of indigenous peoples, a cultural orientation, a set of values, a different conceptualization of such things as time, space and subjectivity, different and competing theories of knowledge, highly specialized forms of language, and structures of power' (Smith, 1999, p. 42).5

This position requires, I think, some qualification. First, researchers are clearly not immune from some of the damaging and prejudicial attitudes on matters of race, sexuality, disability and gender which are found among the rest of the population, though I might hope that their training and experience might give them above-average awareness of these issues and above-average alertness to their expression in their own work. Even where such attitudes remain in researchers' consciousness, this intelligent self-awareness and social sensitivity mean on the whole that they are able to deploy sufficient self-censorship not to expose it in a damaging way. Researchers may thus remain morally culpable for their thoughts, but, at least, communities can be spared the harm of their expression. It is also a matter of some significance that researchers are more exposed than most to public criticism, not least from critics from within these disempowered communities, when such prejudices do enter and are revealed in their work. If they employ the rhetoric of, for example, anti-racist or anti-sexist conviction, they are at least in their public pronouncements exposed to the humiliation of being hoisted by their own petard. It is difficult to see the fairness in excluding all outsider researchers on the a priori supposition of universal prejudice. It is better, surely, to expose it where it is revealed and, if absolutely necessary, to debar individuals who ignore such criticism and persist in using the privilege of their research position to peddle what can then only be regarded as damaging and prejudicial propaganda. Secondly, it is plainly not the case that Western research is located exclusively (as is implied) in a positivist tradition, even if this tradition has been a dominant one. Phenomenology, ethnography, life history, even, more recently, the use of narrative fiction and poetry as forms of research representation, are all established ingredients of the educational research worlds in the UK, USA or Australasia. Contemporary research literature abounds with critiques of positivism as well as examples of its continuing expression.

I have placed much weight in these considerations on the importance of any research being exposed to criticism--most importantly, perhaps, but by no means exclusively by the people whose experience it claims to represent. This principle is not simply an ethical principle associated with the obligations that a researcher might accept towards participants in the research, but it is a fundamental feature of the processes of research and its claims to command our attention. **It is precisely exposure to, modification through and survival of** a process of vigorous public **scrutiny that provides research with whatever authority it can claim**. In contemporary ethnographic research, case-study and life-history research, for example, this expectancy of exposure to correction and criticism is one which runs right through the research process. The methodological requirement is for participants to have several opportunities to challenge any prejudices which researchers may bring with them: at the point where the terms of the research are first negotiated and they agree to participate (or not); during any conversations or interviews that take place in the course of the research; in responding to any record which is produced of the data gathering; in response to any draft or final publication. Indeed, engagement with a researcher provides any group with what is potentially a richly educative opportunity: an opportunity to open their eyes and to see things differently. It is, moreover, an opportunity which any researcher worth his or her salt will welcome.

Not all researchers or research processes will be as open as are described here to that educative opportunity, and not all participants (least of all those who are self-defining as `disempowered') will feel the confidence to take them even if they are there. **This may be seen as a reason to set up barriers to the outsider researcher, but they can and should** more often **be seen as problems** for researchers and participants **to address together in the interests of** their **mutual understanding and benefit.**

Notwithstanding these considerations, one of the chief complaints coming out of disempowered communities is that this kind of mutual interest and benefit is precisely what is lacking in their experience of research. It is to this consideration that I shall now turn. IV OUTSIDERS EXPLOIT INSIDER PARTICIPANTS IN THE COMMUNITIES THEY RESEARCH Ellen describes how fieldwork has become `a rite of passage by which the novice is transformed into the rounded anthropologist and initiated into the ranks of the profession'Ða ritual by which `the student of anthropology dies and a professional anthropologist is born' 􏰈Ellen, 1984, p. 23). This is a reminder that research can carry benefits to the researcher which go beyond those associated with the `pure' pursuit of understanding. As participants in research become more aware of this, their attitudes towards research and researchers can, understandably, change. The following observation was made by a woman from a community that had experienced several waves of enthusiastic researchers: The kind of behaviour researchers have towards locals tells us that they just want to exploit them and take from them their ideas and information. It also tells us that they don't really care at all. They want the information to use in front of a group of people at home, so that they can be seen as clever academics. Then in the end they publish books, reviews, articles etc in order to spread their popularities. So what is this, and what is research really about? Not all researchers are exploiters, but most are, and I think it is time up now for this, and that these researchers should also be exploited by local people. 􏰈Florence Shumba, quoted in Wilson, 1992, p. 199) Researchers who are sensitive to this issue typically look for ways to counter the imbalance of benefit. They will sometimes discuss with participants ways in which the research could be designed to benefit all parties, by, for example, ensuring that it addresses issues on which the participants need information as well as the researchers or by providing data that the research participants can use independently and for their own purposes. In the absence of any other perceived benefit, some schools in the UK have responded to researchers' requests for access and time for interviews by proposing to charge by the hour for teachers' time. Of course sometimes participants will be persuaded to participate on the grounds that some other people whose interests they care aboutÐ pupils in schools, for example, or children currently excluded from educationÐwill secure the benefit of the research, but there has to be the link between something which they perceive to be a benefit 􏰈albeit altruistically) and the commitment which they are asked to make. These illustrations of the terms of engagement between researchers and their participants present a picture of a trade in benefit, the negotiation of a utilitarian equation of mutual happiness and, perhaps, pain, though one in which higher satisfactions 􏰈e.g. new insights and the improvements to the future education of children) have a place alongside lower ones 􏰈a bit of self-publicity or cash in the school fund). Questions of exploitation, in Kantian terms of treating people as means rather than ends 􏰈see Kant, 1964)6 come in if, as is sometimes alleged, researchers use their positions of authority or their sophistication to establish relationships in which the benefits are very one-sided in their favour. This distinction between the utilitarian principle and the Kantian one is crucial here. The utilitarian principle might require us to measure in the scales a much wider community of benefit. If, for example, the researcher could show that, even though the Maori community he or she was researching experienced the inconvenience of the research without the benefit, thousands of other people would benefit from it, then the utilitarian equation might provide justification for the research. But this is precisely one of the weaknesses of the utilitarian principle of the greatest happiness of the greatest numberÐat least when it is applied with this sort of simplicity. It requires either a broader take on the utilitarian principle 􏰈which might observe that a programme of action which allocates all the benefits to one group and all the `pain' to another will not be conducive to the greatest aggregation of happiness) or the invoking of something closer to the Kantian principle, which would demand that we do not exploit one group of people to the exclusive benefit of another. Researchers seeking collaboration with participants in disempowered communities have essentially two forms of appealÐto their self-interest or to their generosity. Either they need to see some benefit to themselves which is at least roughly commensurate to the effort that is required of them 􏰈or in some cases the value of what they have to offer); or they need knowingly to contribute out of their own benevolence towards the researcher or others whom they believe the research will benefit. In this second case, the researcher is placed in something of the position of the receiver of a gift and he or she needs to recognise consequently the quite elaborate ethical apparatus that surrounds such receipt. There is a particular `spirit' in which we might be expected to receive a gift: a spirit of gratitude, of humility, of mutuality in the relationship. There may also be a network of social expectations, which flow from such givingÐof being in thrall to the giver, of being in his or her debtÐbut on the whole anyone contributing to an educational research project would be naõÈve to assume that such `debts' might be repaid. Most of the time, researchers are in fact inviting the generosity of their participants, and perhaps there is something more ethically elevated in responding to such generosity with a true spirit of gratitude and a recognition of the mutuality of relationship which binds giver and receiver, than in seeking to establish a trade in dubious benefits. Smith 􏰈1999) provides a wonderful picture of the combination of spirit and benefits that might be involved in establishing this relationship 􏰈as well as a whole new angle on the notion of `empowerment'!) when she outlines the range of issues on which a researcher approaching a Maori community might need to satisfy them: `Is her spirit clear? Does he have a good heart? What other baggage are they carrying? Are they useful to us? Can they fix up our generator? Can they actually do anything?' 􏰈Smith, 1999, p.10). Perhaps all educational researchers should be required to satisfy participants on these questions. I conclude that the possibility that outsider educational research may be conducted in an exploitative manner is not an argument for obstructing it comprehensively, but it is an argument for requiring that it be conducted under an appropriate set of principles and obligations and in a proper spirit. `Qualitative researchers', argued Stake, `are guests in the private spaces of the world. Their manners should be good and their code of ethics strict' 􏰈Stake, 1998, p.103). Any community may legitimately reject a researcher 􏰈insider or outsider) who fails to establish and conduct relationships under these requirements. In this field, ethics is never far removed from politics. This essay has focused on the relationship between educational researchers and communities that are self-defined as `disempowered' but has not really addressed the issue of power. At the heart of the objections to outsider research is a view that such research, far from challenging and removing such disempowerment, operates to reinforce it. It is this argument which I shall now address. V OUTSIDERS' RESEARCH DISEMPOWERS INSIDERS At least one of the arguments against outsider research into self-defined `disempowered' sections of the population is made independently of the measure of sensitivity and care, which the outsider researchers demonstrate in its conduct. `If we have learned one thing from the civil rights movement in the US', wrote Ed Roberts, a leading figure in the Disability Rights Movement 􏰈DRM), `it's that when others speak for you, you lose' 􏰈quoted in Driedger, 1989, p. 28). Roberts' case is in part that for so long as such groups depend on outsiders to represent them on the wider stage, they will be reinforcing both the fact and the perception of their subordination and dependency as well as exposing themselves to potential misrepresentation. They have to break the vicious circle of dependencyÐand that means taking control for themselves of the ways in which their experience is represented more widely: The DRM's demand for control is the essential theme that runs through all its work, regardless of political-economic or cultural di􏰀erences. Control has universal appeal for DRM activists because their needs are everywhere conditioned by a dependency born of powerlessness, poverty, degradation, and institutionalisation. This dependency, saturated with paternalism, begins with the onset of disability and continues until death. 􏰈Charlton, 1998, p. 3) Outsider researchers sometimes persuade themselves that they are acting in an emancipatory way by `giving voice to' neglected or disenfranchised sections of the community. Their research may indeed push the evident voice of the researcher far into the background as he or she `simply presents', perhaps as large chunks of direct transcription and without commentary, what participants have to say. But, as Reinharz has warned, this is by no means as simple as it might appear: To listen to people is to empower them. But if you want to hear it, you have to go hear it, in their space, or in a safe space. Before you can expect to hear anything worth hearing, you have to examine the power dynamics of the space and the social actors . . . Second, you have to be the person someone else can talk to, and you have to be able to create a context where the person can speak and you can listen. That means we have to study who we are and who we are in relation to those we study . . . Third, you have to be willing to hear what someone is saying, even when it violates your expectations or threatens your interests. In other words, if you want someone to tell it like it is, you have to hear it like it is. 􏰈Reinharz, 1988, pp. 15±16) Even with this level of self knowledge, sensitivity and discipline, there is a significant temptation in such situations to what is sometimes called ventriloquy: the using of the voice of the participant to give expression to the things which the researcher wants to say or to have said. This is a process which is present in the selection of participants, in the framing of the questions which they are encouraged to answer, in the verbal and visual cues which they are given of the researcher's pleasure or excitement with their responses, and, later, in the researcher's selection of material for publication. Such ventriloquy, argues Fine, disguises `the usually unacknowledged stances of researchers who navigate and camouflage theory through the richness of ``native voices''' 􏰈Fine, 1994, p.22).

The argument that insiders within `disempowered' communities (or any other communities for that matter) should be researching and, where appropriate, giving public expression to their own experience is surely uncontroversial. In a context in which insider research has been negligible and hugely subordinated to waves of outsider research, there is a good case for taking practical steps to correct that balance and spare a community what can understandably be experienced as an increasingly oppressive relationship with research.

There are, however, at last three reasons in principle for keeping the possibility of outsider research open: (i) that such enquiry might enhance the understanding of the researcher; (ii) that it might enhance the understanding of the community itself; and (iii) that it might enhance the understanding of a wider public. There is no doubt a place for researching our own experience and that of our own communities, but surely we cannot be condemned lifelong to such social solipsism? Notwithstanding some postmodernist misgivings, `There is still a world out there, much to learn, much to discover; and the exploration of ourselves, however laudable in that at least it risks no new imperialistic gesture, is not, in the end, capable of sustaining lasting interest' (Patai, 1994, p. 67). The issue is not, however, merely one of satisfying curiosity. **There is a real danger that if we become persuaded that we cannot understand the experience of others and that `we have no right to speak for anyone but ourselves', then we will all too easily find ourselves** epistemologically and morally isolated**, furnished with a comfortable legitimation for** ignoring the condition of anyone but ourselves. This is not, any more than the paternalism of the powerful, the route to a more just society.

How, then can we reconcile the importance of (1) wider social understanding of the world of `disempowered' communities and of the structures which contribute to that disempowerment, (2) the openness of those communities and structures to the outsider researcher, and (3) the determination that the researcher should not wittingly or unwittingly reinforce that disempowerment? The literature (from which a few selected examples are quoted below) provides some clues as to the character of relations between researcher and researched which `emancipatory', `participatory' or `educative' research might take.

To begin with, **we need to re-examine the application of the notion of `property' to the ownership of knowledge**. In economic terms, knowledge is not a competitive good. It has the distinctive virtue that (at least in terms of its educative function) it can be infinitely distributed without loss to any of those who are sharing in it. Similarly **the researcher can acquire it from people without denying it to them and can return it enriched**. However, it is easy to neglect the processes of reporting back to people and sharing in knowledge and the importance which can be attached to this process by those concerned. For Smith, a Maori woman working with research students from the indigenous people of New Zealand, `Reporting back to the people is never a one-off exercise or a task that can be signed off on completion of the written report'. She describes how one of her students took her work back to the people she interviewed. `The family was waiting for her; they cooked food and made us welcome. We left knowing that her work will be passed around the family to be read and eventually will have a place in the living room along with other valued family books and family photographs' (Smith, 1999, pp. 15±16).

For some, what is required is a moving away from regarding research as a property and towards seeing it as a dialogic enquiry designed to assist the understanding of all concerned:

Educative research attempts to restructure the traditional relationship between researcher and `subject'. Instead of a one-way process where researchers extract data from `subjects', Educational Research encourages a dialogic process where participants negotiate meanings at the level of question posing, data collection and analysis . . . It . . . encourages participants to work together on an equal basis to reach a mutual understanding. Neither participant should stand apart in an aloof or judgmental manner; neither should be silenced in the process. (Gitlin and Russell, 1994, p. 185)

Not law enforcement

Alston, U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, 5/28/2010

(Philip, “Study on Targeted Killings,” U.N. General Assembly, Human Rights Council, Fourteenth Session, http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf)

A. **Definition of** “**targeted killing**”

7. Despite the frequency with which it is invoked, “targeted killing” is not a term defined under international law. Nor does it fit neatly into any particular legal framework. It came into common usage in 2000, after Israel made public a policy of “targeted killings” of alleged terrorists in the Occupied Palestinian Territories.1 The term has also been used in other situations, such as: • The April 2002 killing, allegedly by Russian armed forces, of “rebel warlord” Omar Ibn al Khattab in Chechnya.2 • The November 2002 killing of alleged al Qaeda leader Ali Qaed Senyan al-Harithi and five other men in Yemen, reportedly by a CIA-operated Predator drone using a Hellfire missile.3 • Killings in 2005 – 2008 by both Sri Lankan government forces and the opposition LTTE group of individuals identified by each side as collaborating with the other.4 • The January 2010 killing, in an operation allegedly carried out by 18 Israeli Mossad intelligence agents, of Mahmoud al-Mahbouh, a Hamas leader, at a Dubai hotel.5 According to Dubai officials, al-Mahbouh was suffocated with a pillow; officials released videotapes of those responsible, whom they alleged to be Mossad agents.6 8. Targeted killings thus take place in a variety of contexts and may be committed by governments and their agents in times of peace as well as armed conflict, or by organized armed groups in armed conflict.7 The means and methods of killing vary, and include sniper fire, shooting at close range, missiles from helicopters, gunships, drones, the use of car bombs, and poison.8 9. **The common element in all these contexts is that lethal force is intentionally and deliberately used**, **with a degree of pre-meditation**, **against an individual or individuals specifically identified in advance by the perpetrator**.9 **In a targeted killing**, **the specific goal of the operation is to use lethal force**. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but **the goal of the operation**, **from its inception**, should not be to kill. 10. Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal.10 **This is in contrast to** other terms with which “targeted killing” has sometimes been interchangeably used, such as “**extrajudicial execution**”, “**summary execution**”, **and** “**assassination**”, all of which are, by definition, illegal.11

“War powers authority” covers military operations—not the FBI

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**The War Power in the Twenty-First Century**.

The presumption of a dual war-making role appears to have been eclipsed since 2001, during which time it has been argued by some that the president stands supreme in his war-making capacity as **commander in chief** and that he has no obligation to share such power with Congress. This view assumes that the president has all the requisite and necessary **authority to order whatever he deems necessary in terms of military operations** and that Congress can claim only the power to declare war; the resulting operational conduct is strictly a presidential prerogative. Opponents of this interpretation point to all the additional powers dealing with the military that are vested in Congress.

A topical version of the aff would solve most of their offense—it’s capable of radical change

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an optimistic discipline**. It operates both in the present and in the future. **Order without law is often the privilege of the strong**. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the successes and failures of past models, with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

Debate is not asking the oppressor

Gooding-Williams 3

 Race, Multiculturalism and Democracy

Robert Gooding-Wiliams

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 Issue

Constellations

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 Consider, for example, the view held by many (though not all) African Americans that the (comparatively) low, average socioeconomic status of African-Americans, because it is due to the cumulative effects of racial slavery and antiblack racism, is an injustice for which African Americans deserve compensation. Some white Americans will dismiss this assertion of injustice, largely because they are "reluctant to see the present social plight of blacks as the result of American slavery."65 Still, were these whites to learn something of American racial slavery and of its impact 011 African-American life, they could begin to see that the argument for reparations is plausible, and begin to share with the African-Americans who advance that argument a common moral ground for further deliberations, hi other words, through the study of African American social history, they could begin to acknowledge the cogency of the considerations in light of which many African-American black persons, in reflecting on that history, have insisted that being black in America involves collective injustice. Supposing that they augmented this study with inquiry into the central themes of African-American political thought66 (as it has evolved, say from the writings of Martin Delaney to those of Martin King), they could enlarge the common ground by beginning to recognize the range and force of African-American perspectives oil other race-related issues.

It would be a mistake, of course, to think that multiculturalism needs to be race-conscious only when addressing the self-understandings of black persons or, by analogy the self-understandings of racially classified but non-black "persons of color." America is also a nation of racially classified whites and white persons; and white personliood, we know, cuts across ethnic lines. Again, by analogy to blacks who become black persons, whites who become white persons let their descriptions of themselves as white matter to the ways in which they live their lives. David Roediger's work on the racial formation of Irish-American workers is relevant here, as it provides a model for historical inquiry that illuminates the social construction and etlmic cultural significance of white racial identities.67 Also important, in this context, is Toni Morrison's book. Playing in the Dark. Reflecting 011 the nature of American literature, Morrison writes: that cultural identities are formed and informed by a nation's literature, and... what seemed to be 011 the 'mind' of the literature of the United States was the selfconscious construction of the American as a new white man. Emerson's call for this new man 111 'The American Scholar" indicates the deliberateness of the construction the conscious necessity for establishing the difference. But the writers who responded to this call, accepting or rejecting it. did not look solely to Europe to establish a reference for difference. There was a very theatrical difference underfoot. Writers were able to celebrate and deplore an identity already existing or rapidly taking a form that was elaborated through racial difference. That difference provided a huge payout of sign, symbol, and agency in the process of organizing, separating, and consolidating identity . . .6S

 For Morrison, reading American writers after Emerson (e.g.. Poe and Twain) is a matter of engaging complicated constructions of white racial identities implicated in a racial ideology ("American Africanism" is Morrison's phrase) that assigns multiple meanings to the African presence in America. Self-consciously constructing a literature in light of descriptions of themselves as white, the "founding writers of young America" were white persons (in my sense of the term) for whom the figure of the black African became a "staging ground and arena for the elaboration of the quintessential American identity."® For my purposes, Morrison's short study is valuable, because it affords some excellent examples of the ways multicultural inquiry can explore the cultural construction of white racial identities and their connection to the promotion of racial ideologies. In America, multicultural education cannot avoid race, because socially constructed racial identities - those of black persons and white persons alike come into view 110 matter what class or ethnic perpsective one occupies in crosscultural deliberations. And while one ought not to conflate multiculturalism with struggles against racism and economic injustice, or promote it as a substitute for such straggles, multicultural education, by being race conscious, can contribute to an understanding of the issues posed by these struggles.70

### 1nr

Their view of irresolvable antagonism is easily coopted by the right—furthers oppression

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The Ordeal Of Integration:

Progress And Resentment In America's "Racial" Crisis

Orlando Patterson is a Jamaican-born American historical and cultural sociologist known for his work regarding issues of race in the United States, as well as the sociology of development

In the attempt to understand and come to terms with the problems of Afro-Americans and of their interethnic relations, the country has been ill served by its intellectuals, policy advocates, and leaders in recent years. At present, dogmatic ethnic advocates and extremists appear to dominate discourse on the subject, drowning out both moderate and other dissenting voices. A strange convergence has emerged between these extremists. On the left, the nation is misled by an endless stream of tracts and studies that deny any meaningful change in America's "Two Nations," decry "The Myth of Black Progress," mourn "The Dream Deferred," dismiss AfroAmerican middle-class status as "Volunteer Slavery," pronounce AfroAmerican men an "Endangered Species," and apocalyptically announce "The Coming Race War." On the right is complete agreement with this dismal portrait in which we are fast "Losing Ground," except that the road to "racial" hell, according to conservatives, has been paved by the very pQlicies intended to help solve the problem, abetted by "The Dream and the Nightmare" of cultural changes in the sixties and by the overbreeding and educational integration of inferior Afro-Americans and very policies intended to help solve the problem, abetted by "The Dream and the Nightmare" of cultural changes in the sixties and by the overbreeding and educational integration of inferior Afro-Americans and lower-class Euro-Americans genetically situated on the wrong tail of the IQ "Bell Curve." If it is true that a "racial crisis" persists in America, this crisis is as much one of perception and interpretation as of actual socioeconomic and interethnic realities. By any measure, the record of the past half century has been one of great achievement, thanks in good part to the suecess of the government policies now being maligned by the left for not having gone far enough and by the right for having both failed and gone too far. At the same time, there is still no room for complacency: because our starting point half a century ago was so deplorably backward, we still have some way to go before approaching anything like a resolution.

We can apply infinite perspectives to reach the best solution – don’t throw out expertism without evaluating its usefulness

Kathleen Higgins, University of Texas-Austin, Philosophy Professor, Winter 2013, Post-Truth Pluralism: The Unlikely Political Wisdom of Friedrich Nietzche, Kindle

Progressives are right that we live increasingly in a post-truth era, but rather than rejecting it and pining nostalgically for a return to a more truthful time, we should learn to better navigate it. Where the New York Times and Walter Cronkite were once viewed as arbiters of public truths, today the Times competes with the Wall Street Journal, and CBS News with FOX News and MSNBC, in describing reality. The Internet multiplies the perspectives and truths available for public consumption. The diversity of viewpoints opened up by new media is not going away and is likely to intensify. This diversity of interpretations of reality is part of a longstanding trend. Democracy and modernization have brought a proliferation of worldviews and declining authority of traditional institutions to meanings. Citizens have more freedom to create new interpretations of facts.

This proliferation of viewpoints makes the challenge of democratically addressing contemporary problems more complex. One consequence of all this is that our problems become more wicked and more subject to conflicting meanings and agendas. We can’t agree on the nature of problems or their solutions because of fundamentally unbridgeable values and worldviews. In attempting to reduce political disagreement to black and white categories of fact and fiction, progressives themselves uniquely ill-equipped to address our current difficulties, or to advance liberal values in the culture.

A new progressive politics should have a different understanding of the truth than the one suggested by the critics of conservative dishonesty. We should understand that human beings make meaning and apprehend truth from radically different standpoints and worldviews, and that our great wealth and freedom will likely lead to more, not fewer, disagreements about the world. Nietzsche was no democrat, but the pluralism he offers can be encouragement to today’s political class, as well as the rest of us, to become more self-aware of, and honest about, how our standpoint, values, and power affect our determinations of what is true and what is false.

In the post­truth era, we should be able to articulate not one but many different perspectives. Progressives seeking to govern and change society cannot be free of bias, interests, and passions, but they should strive to be aware of them so that they can adopt different eyes to see the world from the standpoint of their fiercest opponents. Taking multiple perspectives into account might alert us to more sites of possible intervention and prime us for creative formulations of alternative possibilities for concerted responses to our problems.

Our era, in short, need not be an obstacle to taking common action. We might see today’s divided expert class and fractions public not as temporary problems to be solved by more reason, science, and truth, but rather as permanent features of our developed democracy. We might even see this proliferation of belief systems and worldviews as an opportunity for human development. We can agree to disagree and still engage in pragmatic action in the World.

There are no fixed codes, to speak is to code switch, and insistence on a single preferable code is essentialist

Mellom 6 - Assistant Research Scientist for CLASE; Center for Latino Achievement and Success in Education CODE-SWITCHING AT A BILINGUAL SCHOOL IN COSTA RICA: IDENTITY, INTERTEXTUALITY AND NEW ORTRAITS OF COMPETENCE, PAULA JEAN MELLOM

<http://athenaeum.libs.uga.edu/bitstream/handle/10724/9023/mellom_paula_j_200605_phd.pdf?sequence=1>

On the other hand, some sociolinguists have tended to view code-switching as an emergent phenomenon which is a product of social interaction (Gumperz, 1982) and a means to construct identity or (re)affirm group membership (Heller, 1988). However, there is little agreement about when code-switching can happen and who can do it. Some argue that code-switching, can only occur in “stable bilingual communities”, like those in countries like Belgium and Switzerland. However, some researchers (Zentella, 1997) have troubled the essentialist model of traditional diglossia which posits that the two languages used in a community are relegated to certain social situations which are clearly defined and mutually exclusive. In fact, recent studies have begun to focus on other language contact situations, where code-switching can also occur (Gallindo 1996, Rampton 1995). These “linguistic borderlands” like cities with large immigrant populations, borders between countries or territories and schools with large and diverse ethnic populations are rife with individuals, with varying degrees of bilingualism who alternate from one language to another as a matter of course. But these borderlands, with their shifting linguistic landscape, muddy the monolingual-based analysis waters and pose serious theoretical problems to structuralist frameworks designed to analyze code-switching because these depend on the integrity of discreet language systems. Gardner-Chloros (1995), in her work on Alsatian code-switching advocates a (re)viewing of the theoretical assumptions behind the terminology used in code-switching research. She forcefully argues that the commonly accepted concept of “code-switching” implies two inherently separate “standard” languages and asserts that we must remember that all “standard languages” are hybrids.

Voting against us to endorse black intellectualism is an act of inadvertent colonization, where you as judges and we as debaters assume the mantle of anti-racist codes only to destroy their potential

Shannon Sullivan, Penn State, 2004, White World-Traveling, Journal of Speculative Philosophy, Vol. 18, No. 4

Lugones does not provide English translations of the Spanish portions of her essay co-authored with Elizabeth Spelman. She and Spelman require their readers either to travel to Lugones’ world to engage in dialogue or to realize that they are unprepared for genuine dialogue across racial and cultural differences and, as a result, are missing the full meaning of Lugones’ remarks. White/Anglo women’s lack of preparation for dialogue with women of color is not uncom- mon and, moreover, it goes beyond their typical ignorance of languages other than English. It often extends to ignorance of the history, geography, culture, food, politics, and other important features of nonwhite worlds. As Lugones and Spelman explain, “white/Anglo women are much less prepared for this dialogue with women of color than women of color are for dialogue with them in that women of color have had to learn white/Anglo ways, self-conceptions, and con- ceptions of them” (Lugones and Spelman 1983, 577). This asymmetrical pre- paredness is produced by an inverse relationship of power and knowledge. Latina and other women of color often have less power than white/Anglo women, but they also tend to have more knowledge precisely because their relative lack of power has forced them to learn about white/Anglo ways of life. Turning the tables, Lugones writes in Spanish and forces white/Anglo women to learn some- thing about Latino/a worlds.

While a white/Anglo person’s learning Spanish can begin to balance the relationship of power and knowledge between white/Anglo and Latino worlds, it also can have the opposite effect of increasing the hegemony of the white world. This occurs when white people learn a language other than Standard American Language—Spanish, African American Language, or otherwise—precisely to dominate the world that speaks that language. Certainly this happened during times of colonialist conquest, but it also continues today as business corporations and advertising firms in the United States learn (bits of) African American Language and Spanish to better market products that promise the “exoticism” of Blackness and the “spiciness” of Latino culture. (Standard, middle- class whiteness is so unhip nowadays, as Yancy notes [Yancy 2004, 276].) It also can happen in less insidious ways, however, such as when white people learn another language to (try to) break out of their white solipsism. Even in these well-intentioned instances, the protection provided to minority races by white people’s ignorance of their languages can be eroded once white people begin to understand and speak them.

This point was brought home to me when a Latina friend and philosopher explained that she did not want white/Anglo people to learn Spanish because their knowledge would intrude on the Spanish/Latina world that she and other Spanish-speaking philosophers are able to create in the midst of white/Anglo- dominated conferences.2 Opening up her world to white/Anglo philosophers tends to result in the destruction of a valuable point of resistance to white racism. Because of the dominance of white people in philosophy in the United States, she frequently is forced to travel to white worlds and wants to preserve a small space that is relatively free of white people and the issues of race and racism that their presence inevitably (though not necessarily deliberately) pro- duces.

Although he ultimately wants to risk inviting white people into Black semioticspace,Yancy clearly shares my friend’s concern.3 As he explains, African American Language and song often have functioned as powerful counterhegemonic expressions because they are a code that white people generally do not understand (Yancy 2004, 287–88). While white people thought that Black people were meekly singing of the glory of God and heaven, for example, Negro spirituals were surreptitiously encouraging and planning rebellious es- cape from slavery. The linguistic resistance of Negro spirituals was possible only because white people did not understand the language being spoken. Let “the ofay” (Yancy 2004, 287, 288, 296) into the secret of the code and an important form of resistance to white domination is eliminated.

Dialogue fosters linguistic pluralism through a process of constructive collision

Shuaib **Meacham 4**, education prof at Colorado Boulder, “Comments on Bakhtin and Dialogic Pedagogy”, Journal of Russian and East European Psychology, vol. 42, no. 6, November–December 2004, pp. 82–85

By way of critique, my primary concern returns to the issue of race and language mentioned earlier. While acknowledging the linguistic diversity as sumed by the presence of class, Bakhtin’s examples are limited to punctuation related issues. In the study of grammar instruction, a vital area of consideration is the element of “stigma” that is attached to certain types of nonstandard word usages. His dialogic comparisons rooted in different punctuational possibilities do not touch on the far more stigmatizing grammatical issues related to verb tense and subject verb agreement. Such cases applied to Bakhtin’s pedagogy would require teachers to employ highly stigmatized grammatical constructs within the context of language instruction. Within the context of instruction, the use of such phrases was at the core of the Ebonics controversies that emerged close to ten years ago. Merely juxtaposing nonstandard constructs with the standard as a means of helping students to learn the standard patterns more effectively ignited a storm of national controversy. Bakhtin’s pedagogy would not only allow for basic comparisons, but, given the prominence of hip-hop and its power for today’s youth, would accommodate the possibility that the nonstandard form might be more linguistically powerful than the standard comparison. Bob Marley has a phrase recently quoted by the hip-hop group Dead Prez: “Them belly full but we hungry.” Bakhtin’s pedagogy would necessarily celebrate the semantic advantages of the words chosen in the phrase although they do not represent a standard form. To realistically think of preservice teachers celebrating nonstandard language constructs again speaks to the need for a “conversion” experience. Bakhtin’s pedagogy is powerful because for him the language is a living experience, it is a source of joy. In our present ethos, language is a source of fear and dread. The Ebonics controversy and hip-hop both constitute clear indications of the manner in which the dread of racialized language sends people into paroxysms of loathing. Bakhtin’s article is a refreshing taste of a liberated language consciousness and what it can accomplish in the heavily policed domain of language pedagogy. But the deeper question perhaps goes back to the source of Bakhtin’s dialogic fascination, Dostoevsky (1994) Notes from Underground. This metaphor of the “underground,” a perspective from below, speaks of a place where perception is no longer ruled and policed by surface illusion and its enforcers. Perhaps one has to go underground to be liberated linguistically, to experience a liberated perception. Perhaps the core of Bakhtin’s consciousness exists below the surface in which case the question is not only how to foster a pedagogy of dialogue but how to foster a pedagogy of conversion as well. How do we teach preservice teachers not to fear the language of the students, not to fear the infinite possibilities of language so that they will see flesh and language as something to celebrate instead of something to dread? With respect to research, Bakhtin does an excellent job of representing the researcher as a learner. Not so much through the article itself, but from Eugene Matusov’s commentary, one is able to appreciate the considerable labor involved in Bakhtin’s engagement of pedagogical issues. In order to carry out and discuss his pedagogy, Bakhtin not only learns about the field of education but learns from the students in the context of instruction. Bakhtin welcomes the learning involved in dialogue, the “colliding,” as Matusov describes, of different perspectives coming together. “Collision” in U.S. English is not traditionally a positive occurrence. Collision normally implies that something negative has occurred. Elements traditionally meant to be in their own separate paths have unwittingly come together to create this negative outcome called a “collision.” Collision, as a positive construct, speaks of a necessary violence that is required to open up previously closed conceptions to new possibilities of meaning and understanding. Elements that are usually represented as oppositional, through collision, can become perceived as relational and leading to new paths of understanding. This potentially can lead to new processes of inquiry wherein the primary aim is disruption and redefinition, an inquiry that expands language and unearths previously closed off domains of relationship. Perhaps this inquiry can lead to a new vision of language that promotes conversion by disrupting long-held conceptions and opens both researcher and reader to new conceptions that enable us to celebrate instead of fearing language diversity and dialogue with students.

Best empirics prove rev fails

John W. Sherman **‘6**

– Professor of History and Director of the MA Program in History at Wright State University “Comparing Failed Revolutions” Wright State University. *Latin American Research Review* 41.2 (2006) 260-268

The overwhelming majority of revolutionary movements in the postwar era have been crushed by the State. Employing an ever-increasing arsenal of sophisticated surveillance and intelligence technology, military and security apparatuses have easily outgunned and dismantled insurgencies in nearly all urban settings. Rural insurgencies have proven more resilient, but since the mid-1980s even these have greatly waned. The resource curve for the powers-that-be has been particularly striking since the early 1980s, when hefty increases in funding under Ronald Reagan helped bring on-line a host of new technologies—digital-based, satellite-interfaced surveillance systems, path-breaking communications interception, and highly proficient night-vision and detection equipment, among them. If successful revolution was made difficult with the advent of better transportation infrastructure and communications in the late nineteenth century, today it is all but impossible. Even rural insurgencies can now be fairly easily snuffed out, especially when the State has no qualms about exterminating part of the civilian populace in the process. Torture, too, is integral to information-gathering—for the simple fact that it works. Finally, the power of mass media, especially the statistical analysis of polling data coupled with television, has equipped the State with a level of refined propaganda that could have made Josef Goebbels blush.

There is, in the contemporary age, a revolutionary dialectic. When insurgent forces rouse a populace with promises of liberation and carry out their first acts of redemptive violence, they invariably trigger a massive retaliatory strike on the part of the State (which often employs at this juncture unsavory characters and allows for acts of sadism). This, in turn, produces a revolutionary surge, as the populace is alienated by the initial bloodletting and aligns with the revolutionaries in a quest for self-defense and empowerment. The problem, of course, is that modern revolutionaries have neither the military resources nor the organizational sophistication to arm an entire populace. Finding themselves at the mercy of a brutal military, with no options, civilians will inevitably swing back **[End Page 261]** into line with those in power as their only means of survival. As they do so, the authorities will reign in the most unsavory and sadistic, even while employing selective violence to eradicate the revolutionaries themselves. In the midst of this counterrevolutionary project the organized political Left is invariably annihilated, leaving a country even more vulnerable to political manipulation and economic exploitation than it was before the revolution began. In this way, failing insurgencies are actually beneficial to North Americans and others who have money in a world of tremendous economic disparity.

This dialectic has been played out in various degrees in Colombia, El Salvador, and Chiapas—three places where insurrections have failed in recent decades. Analysis of an emerging body of historical and political scholarship, however, suggests that both the dialectic and the inherent shortcomings of revolution in the modern age are still not fully appreciated.

Revolutionary Puritanism leads to Stalinism, Che proves

**Brull 10/12/10**

http://web.overland.org.au/2010/12/the-communist-puritan-it-is-good-to-die-for-the-revolution/

 Michael Brull blogs on Israel, Palestine, and media discussion of related issues on the Independent Australian Jewish Voices website. He now has a blog where he will comment on other matters at http://michaelbrull.wordpress.com/

 Che did not appreciate what he saw as the bureaucratic privileges he encountered in his visits to the Soviet Union. He was more impressed by Maoist China, especially their understanding of **the need for ‘sacrifice’**, which was ‘fundamental to a communist education’ (p 574). What sort of sacrifice does he mean? Essentially, it meant serving the new state with the same fervour as Che. Che thought that ‘even if the Cubans should disappear from the face of the earth because an **atomic war is unleashed** in their names ... **they would feel completely happy and fulfilled’ knowing the triumph of the revolution.** (p 455) Anderson does not note any polls on which this view is based. It seems to me perhaps a little unlikely that millions of people would be pleased to be killed for the sake of his glorious revolution. Even though Cuba brought the world closer to **nuclear annihilation** than at any other point in history, Che welcomed the prospect: ‘Thousands of people will die everywhere, but the responsibility will be theirs [the imperialists], and their people will also suffer ... But that should not bother us.’ Cubans would ‘fight to the last man, to the last woman, to the last human being capable of holding a gun’. (p 571) Which brings us to Che’s underlying values. One of Che’s most famous quotes is that ‘the true revolutionary is guided by a great feeling of love’. Yet it may be more fair to say that Che’s ‘true revolutionary’ is guided by something a little different. Anderson identifies a ‘prime element’ of the qualities Che thought necessary for the future great battle against imperialism: ‘a relentless hatred of the enemy, impelling us above and beyond the natural limitations that man is heir to, and transforming him into an effective, violent, seductive and cold killing machine. Our soldiers must be thus: a people without hatred cannot vanquish a brutal enemy.’ (p 687) Che’s central motivation in life appears not to have been love or compassion. It was, above all, hatred – hatred of ‘the great enemy of mankind: the United States of America.’ (p 688) Years of fighting guerrilla warfare against ‘the great enemy’ helped make Che the cold, ruthless killing machine that he considered ideal. **The result** was that **after Che overthrew a cruel dictatorship, he helped install a new one.** Shortly after the revolution, Castro began closing down dissenting newspapers (pp 433–4, 451). Che had openly opposed a free press for years. When witnessing the overthrow of democracy in Guatemala by the US, he explained why he didn’t support democracy either: ‘This is a country where one can expand one’s lungs and fill them with democracy. There are dailies here run by United Fruit, and if I were Arbenz I’d close them down in five minutes, because they’re shameful and yet they say whatever they want’ (p 127). Imagine the horror of living in a country where one breathes in democracy! Che, however, took charge of the trials of alleged counter-revolutionaries. The spectacle of these public trials and executions overwhelmingly appalled all independent witnesses and foreign journalists (p 372). But Che was a killing machine, deaf to the pleas for compassion, or procedural fairness. He explained that ‘revolutions are ugly but necessary, and part of the revolutionary process is justice at the service of future justice.’ (p 436) If **judicial murder** is ugly, at least we can presume it was **for a greater cause**: the **Maoist tyranny** that Che thought ideal. This should be stressed: Che was not guided by love, and he does not seem to have thought that a goal like trying to make the world happier would have been worthwhile, despite his youthful reading of the social philosophy of Bertrand Russell. It is also a shame he did not read Russell’s critique of the Bolsheviks. One of Russell’s many pertinent insights was his observation that ‘the hopes which inspire Communism are, in the main, as admirable as those instilled by the Sermon on the Mount, but they are held as fanatically, and are likely to do as much harm. ... [F]rom men who are more anxious to injure opponents than to benefit the world at large no great good is to be expected.’ Eduardo Galeano described Che as ‘the most puritanical of the Western revolutionary leaders’ (p 575). This is eminently fair. Anderson writes that Che’s ‘workweek lasted from Monday through Saturday, including nights, and on Sunday mornings he went off to do voluntary labour. Sunday afternoons were all he spared for his family.’ (p 536) While some may admire Che for how hard he worked, he apparently thought the ideal society would be motivated by the same religious fervour: constant, joyless sacrifice for the revolution. He explained that after the revolution, the New Man ‘becomes happy to feel himself a cog in the wheel ... creating a sufficient quantity of consumer goods for the entire population’. Russell, on the other hand, condemned the ‘sacrifice of the individual to the machine that is the fundamental evil’ of capitalism. Emma Goldman likewise complained of the ‘fatal’ crime of capitalism, ‘turning the producer into a mere particle of a machine, with less will and decision than his master of steel and iron’. One recalls the saying that under capitalism man exploits man, but under communism, it’s the complete opposite. Che’s contempt for mere people manifested itself in his cruelty towards the people he knew, and also to those he didn’t. Visiting a literacy program for peasants, he saw one man who hadn’t made much progress. Che publicly insulted him with such spite that he reduced the humiliated peasant to tears (pp 537–8). Illustrative of his fanatical zeal, Che helped design a 32-storey bank. However, he thought it should go without an elevator (Che could get by without an elevator: why not everyone else?). And they could ‘eliminate at least half ’ of the bathrooms. ‘But in revolutions,’ he was told, ‘people go to the bathroom just as much as before it.’ ‘Not the new man,’ said Che. ‘He can sacrifice.’ (pp 431–2) And sacrifice he must. For Che’s puritanical vision must be imposed; **all must sacrifice for the revolution.** Before Che was executed, he declared: ‘Shoot, coward, you are only going to kill a man.’ (p 710) Che could finally make the ultimate sacrifice for the vision he lived for. It’s just a shame that his vision was so inhumane. While Che’s hatred and fanaticism may have made him a gifted guerrilla, they did not help create a more just society.