# 1NC

## off 1

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.

Decision making—

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 Since this PhD project began in 2004, the present author has been affiliated with DREAM (Danish Research Centre on Education and Advanced Media Materials), which is located at the Institute of Literature, Media and Cultural Studies at the University of Southern Denmark. Research visits have taken place at the Centre for Learning, Knowledge, and Interactive Technologies (L-KIT), the Institute of Education at the University of Bristol and the institute formerly known as Learning Lab Denmark at the School of Education, University of Aarhus, where I currently work as an assistant professor.

 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.

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.

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

Steinberg and Freeley ‘13

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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.

Legal engagement is good—

Engaging the law through in-depth debate is critical to solve their impacts

Harris, professor of law – UC Berkeley, ‘94

(Angela P., 82 Calif. L. Rev. 741)

CRT has taken up this method of internal critique. Like the crits, race-crits have tried to go beyond espousing Doctrine X over Doctrine Y, claiming instead to show that both doctrines are biased against people of color from the outset. n33 For example, as Brooks and Newborn note, the CRT critique of equal protection law challenges not only the "intent" test of Washington v. Davis, n34 but the understanding of racism on which that test is based. n35 And, as Farber notes, the CRT critique of affirmative action challenges the very notion of "merit." n36 This commitment to conceptual as well as doctrinal critique is CRT's radicalism - its attempt to dig down to the very roots of legal doctrine, in contrast with the more reformist bent of traditional civil rights scholarship. Following the first wave's announcement that law is not separate from politics, the second wave of CLS moved to the study of law as "rhetoric" - [\*748] the ways in which legal reasoning accomplishes its ideological effects. n37 Second wave crits have attempted to examine how binary thinking in the law is produced and how it reflects larger historical processes of bureaucratization and commodification. In so doing, the second wave of CLS has found no "there" there beneath the rhetoric of law. Where first wave crits assumed that beneath law's indeterminacy was a "fundamental contradiction" in the human condition itself, n38 or relied on the existence of moments of unalienated, authentic "being" in the world, n39 second wave crits have begun to question whether the very assumption of a human condition separate from the language we use to talk about it makes sense. I call this mood of profound doubt and skepticism "postmodernist." There are as many different definitions of postmodernism as there are postmodernists. n40 As law professors have understood the term, n41 however, [Postmodernism] suggests that what has been presented in our social-political and our intellectual traditions as knowledge, truth, objectivity, and reason are actually merely the effects of a particular form of social power, the victory of a particular way of representing the world that then presents itself as beyond mere interpretation, as truth itself. n42 Postmodernism's strength is in its corrosiveness. First wave crits insisted that law functions as a mask for power; second wave crits question the first wave's faith in "unmasking" itself. The effort to expose law as ideology assumed that it was possible, through the force of critique, to suddenly see the way things "really" are in a flash of enlightenment. But the [\*749] second wave crits doubt this very reliance on a "real reality" underlying ideology. Instead, they suggest that ideology is all there is. n43 Postmodernist critique is congenial to race-crits, who had already drawn from history the lesson that "racism" is no superficial matter of ignorance, conscious error, or bigotry, but rather lies at the very heart of American - and western - culture. In one of the foundational articles of CRT, Kimberle Crenshaw notes that the civil rights movement achieved material and symbolic gains for blacks, yet left racist ideology and race-baiting politics intact. n44 In Crenshaw's view, the crits' critiques did not go far enough to expose the racism in legal reasoning and legal institutions. Derrick Bell argues that racism is a permanent feature of the American landscape, not something that we can throw off in a magic moment of emancipation. n45 And in a moment of deep pessimism, Richard Delgado's fictional friend "Rodrigo Crenshaw" has suggested that racism is an intrinsic feature of "The Enlightenment" itself. n46 **The deeper that race-crits dig, the more embedded racism seems to be**; the deeper the race-crit critique of western culture goes, the more useful postmodernist philosophy becomes in demonstrating that nothing should be immune from criticism. By calling everything taken for granted into question, postmodernist critique potentially clears the way for alternative accounts of social reality, n47 including accounts that place racism at the center of western culture. Thus, Gerald Torres has identified postmodernism as a useful position from which to criticize both theories of interest-group and "communitarian" politics. n48 Anthony Cook sees deconstruction, a postmodernist method of reading texts, as potentially "liberatory" for progressive scholars of color. n49 [\*750] And Robert Chang argues that post-structuralism is useful in order to understand the interaction between Asian American political action and the law. n50 Postmodernist thought refuses to accept any concept, linguistic usage, or value as pure, original, or incorruptible. Postmodernist narratives, as used by race-crits, contend that concepts like neutrality and objectivity, and institutions like law, have not escaped the taint of racism, but rather are often used to perpetuate it. Postmodernist narratives emphasize the ways in which "race" permeates our language, our perceptions, even our fondest "colorblind" utopias. n51 CRT tells postmodernist narratives when it digs down into seemingly neutral areas of law and finds concepts of "race" and racism always already there. B. CRT and Modernist Narratives Even while it exposes racism within seemingly neutral concepts and institutions, however, CRT has not abandoned the fundamental political goal of traditional civil rights scholarship: the liberation of people of color from racial subordination. Although, like crits, race-crits have questioned concepts of neutrality and objectivity, they have done so from a perspective that places racial oppression at the center of analysis and privileges the racial subject. This commitment to antiracism over critique as an end in itself has created rifts between CRT and CLS. For example, in a symposium published by the Harvard Civil Rights-Civil Liberties Law Review, race-crits broke with crits over the efficacy of "rights talk." n52 CLS writers had argued "that rights were malleable and manipulative, that in practice they served to isolate and marginalize rather than empower and connect people, and that progressive people should emphasize needs, informality, and connectedness rather than rights." n53 Patricia Williams, Richard Delgado, and Mari Matsuda, however, all rejected this yearning to go beyond rights to more [\*751] direct forms of human connection, arguing that, for communities of color, "rights talk" was an indispensable tool. n54 This argument between CRT and CLS was more a matter of strategy and tactics than of fundamental disagreement. Both sides agreed that progressive political action should be antiracist and that human connection was a good thing. But a comparison of CRT work with the second wave of CLS work also indicates a more serious tension. In its commitment to the liberation of people of color, CRT work demonstrates a deep commitment to concepts of reason and truth, transcendental subjects, and "really-out-there" objects. Thus, in its optimistic moments, CRT engages in "modernist" narratives. n55 Modernist narratives assume three things: a subject, free to choose, who can be emancipated or not; an objective world of things out there (a world "the way it really is" as opposed to the way things appear to be in a condition of false consciousness); and "reason," the bridge between the subject and the object that enables subjects to move from their own blindness to "enlightenment." Modernist narratives thus call on a particular intellectual machinery, a methodology Brian Fay describes as "critical social science." Critical social science requires the following: First, that there be a crisis in a social system; second, that this crisis be at least in part caused by the false consciousness of those experiencing it; third, that this false consciousness be amenable to the process of enlightenment ...; and fourth, that such enlightenment lead to emancipation in which a group, empowered by its new-found self-understanding, radically alters its social arrangements and thereby alleviates its suffering. n56 [\*752] In its optimistic moments, CRT is described very well by "critical social science." The crisis in our social system is our collective failure to adequately perceive or to address racism. This crisis, according to CRT, is at least in part caused by a false understanding of "racism" as an intentional, isolated, individual phenomenon, equivalent to prejudice. This false understanding, however, can be corrected by CRT, which redescribes racism as a structural flaw in our society. Through these explanations, readers will come to a new and deeper understanding of reality, an enlightenment which in turn will lead to legal and political struggle that ultimately results in racial liberation. Under CRT, as Fay remarks of critical social science in general, "the truth shall set you free." n57 This project fits well with the kind of scholarship most often found in law reviews. As several scholars have recently argued, one characteristic of conventional legal scholarship is its insistent "normativity": the little voice that constantly asks legal scholars, "So, what should we do?" n58 Normativity is both a stylistic and a substantive characteristic. At the stylistic level, normativity refers to how law review articles typically are structured: the writer identifies a problem within the existing legal framework; she then identifies a "norm," within or outside the legal system, to which we ought to adhere; and finally she applies the norm to resolve the problem in a way that can easily translate into a series of moves within the currently existing legal system. n59 At the substantive level, normativity describes the assumption within legal scholarship of a coherent and unitary "we" - a legal subject who speaks for and acts in the people's best interest - with the power to "do" something. Legal normativity also confidently assumes "our" ability to reason a way through problems with neutrality and objectivity: to "choose" a norm and then "apply" it to a legal problem. n60 Whereas second-wave CLS work sits very uneasily with this scholarly method, n61 both traditional civil rights scholarship and CRT adhere for the [\*753] most part to stylistic and substantive normativity. Although the "we" assumed in these articles and essays is often "people of color" and progressive whites rather than a generic "we," the same confidence is exhibited of "our" ability to choose one norm over another, to apply the new principle to a familiar problem, to achieve enlightenment, and to move from understanding to action. n62 Even when the recommended course of action goes beyond adopting Doctrine X over Doctrine Y, as CRT makes a point of doing, the exhortation to action often still assumes that liberation is just around the corner. CRT's commitment to the liberation of people of color - and the project of critical social science (generally) and normative legal scholarship (in particular) as a way to further that liberation - suggest a faith in certain concepts and institutions that postmodernists lack. When race-crits tell modernist stories, they assume that "people of color" describes a coherent category with at least some shared values and interests. They assume that the idea of "liberation" is meaningful - that racism is something that can one day somehow cease to exist, or cease to exert any power over us. Modernist narratives assume a "real" reality out there, and that reason can bring us face to face with it. And modernist narratives have faith that once enough people see the truth, right action will follow: that enlightenment leads to empowerment, and that empowerment leads to emancipation. Modernist narratives, then, are profoundly hopeful. They assume that people of color and whites live in the same perceptual and moral world, that reason speaks to us all in the same way despite our different experiences, and that reason, rather than habit or power, is what will motivate people. Modernist narratives also can be profoundly romantic. They imagine heroic action by a formerly oppressed people rising up as one, "empowered" to be who they "really" are or choose to be, breathing the thin and bracing air of freedom. This optimism and romanticism, though easy to caricature, cannot be easily dismissed. As Patricia Williams and Mari Matsuda have pointed out, faith in reason and truth and belief in the essential freedom of rational subjects have enabled people of color to survive and resist subordination. n63 Political modernism, more generally, has been a **powerful force** in the lives of subjugated peoples; as a practical matter, politically liberal societies are [\*754] vastly preferable to the alternatives. n64 A faith in reason has sustained efforts to educate people into critical thinking and to engage in debate rather than violence. n65 The passionate and constructive energy of modernist narratives of emancipation is also grounded in a moral faith: that human beings are created equal and endowed with certain inalienable rights; that oppression is wrong and resistance to oppression right; that opposing subjugation in the name of liberty, equality, and true community is the obligation of every rational person. In its modernist moments, CRT aims not to topple the Enlightenment, but to make its promises real. n66

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.

## off 2

Demands for presencing of those marked as abject reinscribes the Hegelian dialectic of life and death that makes the social death possible in the first place.

Peterson ‘6

Christopher, “The Return of the Body: Judith Butler's Dialectical Corporealism,” Discourse, 28.2&3, Spring & Fall 2006, pp. 153-177 (Article)

In contemporary cultural studies, the body is laden with intense desires and expectations. Emerging with the eclipse of poststructuralism in the late 1980s, “the body” promised to weigh in on contemporary political debates, to give material substance to a discipline supposedly evacuated by what some felt to **be the excessively linguistic or textual focus** of contemporary theory. But what if the very turn to the body occasioned a certain return of **the metaphysics of presence**, only now bearing the name, or rather, the spirit of “the body”? Indeed, scholars in race, gender, and sexuality studies have often invoked the body as a **marker of both identity and self-presence**. Given the violence of erasure, invisibility, and death (both social and material) to which minority bodies have historically been subjected, it has also seemed to many that the ontology of these bodies must be **insisted upon** in the face of this nihilistic threat. As Sharon Holland announces in Raising the Dead: Readings of Death and (Black) Subjectivity, “bringing back the dead (or saving the living from the shadow of death) is the ultimate queer act.”1 And in the introduction to her seminal, 1991 collection of essays on queer theory, Inside/Out, Diana Fuss notes how “a striking feature of many of the essays collected in this volume is a fascination with the specter of abjection, a certain preoccupation with the figure of the homosexual as specter and phantom, as spirit and revenant, abject and undead.”2 Yet, queer scholarship for the most part has addressed the problem of the spectral only by way of contesting its pervasiveness in dominant representations of homosexuality. If saving us from the shadow of death names the “ultimate queer act,” such so-called “raising” of the dead relieves us of any sustained engagement with what Jacques Derrida calls **spectrality**, understood, in part, as an originary process of mourning that is the condition of all life, indeed, **of any body**. For Derrida, spectrality does not originate with one’s social or biological death. As he argues in a brief reading of Poe’s “The Facts in the Case of M. Valdemar,” our “future” absence divides our present/presence from the very beginning. Derrida takes Valdemar’s catachrestic utterance-—”I have been sleeping-—and now-—now-—I am dead”3-—to make a point about the function of language: My death is structurally necessary to the pronouncing of the I. . . . The utterance “I am living” is accompanied by my being-dead and its possibility requires the possibility that I be dead; and conversely. This is not an extraordinary story by Poe here, but the ordinary story of language. . . . I am thus originally means I am mortal.4 While Derrida’s point is that the iterability of a speech act requires the possibility of one’s absence from future scenes of utterance (and thus already implies one’s absence in the present), this living death also names the experience of “being” more generally. As Heidegger puts it, being “is always already dying” in its “beingtowardits-end.”5 For Heidegger, death is not a punctual event that one might mark on a calendar; rather, death always already belongs to our being. The conventional reduction of death to a calculable moment is precisely what Poe’s story parodies. While his doctors assert that his “disease [is] of that character which would admit of exact calculation in respect to the epoch of its termina- tion in death,” Valdemar (aided by the magic of mesmerism) continues to live beyond the estimated moment of decease, a prolongation of dying that allegorizes how life stretches along a path marked at every step by death (51). Valdemar’s protracted dying also echoes Emily Dickinson’s poem “Because I could not stop for death,” in which death “kindly” stops for the speaker and bears her forward through each stage of life. **If**, as in Dickinson’s poem, **death** haunts our “being” from the very beginning, then the spectral condition of sexual minorities is not reducible to a problem of representation, or rather, mis-representation, as queer scholarship tends to suppose. When Holland caricatures “postmodernism” as “the attractive zombie theory of the academy, a place where the living travel through death and are reborn to utter the truths of such a journey,” she suggests that postmodernism articulates a dialectical relation between life and death, a sublation of being and nonbeing that ultimately triumphs over finitude (166). Such a dialectical view of the relation between life and death, however, **opposes** **itself to the spectral**, **which is neither present nor absent**. But perhaps Holland’s caricature is to be expected, for as Derrida notes in Specters of Marx, “the traditional scholar does not believe in ghosts—nor in all that one would call the virtual space of spectrality.” 6 If the traditional scholar does not believe in ghosts, that is because “there has never been a scholar who, as such, did not believe in the clear-cut distinction between the real and the unreal, the actual and the inactual, the living and the non-living, being and non-being” (34). For Derrida, a capacity to speak to “ghosts” would be the mark of a scholar.7 Although it might seem odd to yoke queer critics to the figure of the traditional scholar, so ingrained is the anti-spectral character of queer scholarship that Holland can declare the ultimate queerness of raising the dead as a “fact,” and support this claim only by referring us to ACT UP’s famous political slogan: “**silence = death.”** To insist on this “fact,” however, **is to sidestep the problem of finitude altogether**. When scholars in race, gender, and sexuality studies write about the body, what is typically **invoked is the living body**, **the body that is present to itself, untainted by mortality**. For cultural studies, spectrality is merely an effect of racism, sexism, homophobia, and other social injustices. **Subtracted from** such **external violence**, **the body can be made present,** its ontology no longer in question. But spectrality, as Derrida uses the term (and as I propose to track it here in the context of racial and sexual politics) **does not have its origin in social inequality**. Naming a process of originary mourning that animates corporeal life, spectrality has no proper beginning or end. The abjection that sexual and racial minorities endure might be better understood as a mode of **redoubled ghostliness** that harnesses the spectrality inherent **to all life** and attaches it to those on the margins of sociality: the figure of the gay man dying of AIDS functions as the “proof” of the homophobic white male’s ontological security; the representation of AfricanAmericans as “spooks” (to cite a somewhat antiquated yet illustrative racist epithet) works to ward off the death that **always already haunts** the ontology of the white body.8 No doubt the emergence of gay and lesbian studies in the midst of the AIDS crisis and the cruelty of those discourses that sought to invoke AIDS as further proof of the “death style” of (male) homosexuality inspired many queer critics and theorists to resist the equation of homosexuality and death. Yet, the contestation of this equation, I would argue, has also had the consequence of **disavowing finitude.** My claim is that the specific, historical effects of homophobia, racism, and sexism must also be thought in relation to the generalizable **principle of spectrality**. Certainly there are good reasons to be wary of entertaining general principles, given the risk that they might come to saturate the social and political field, to erase differences altogether. Indeed, the turn to the body has been occasioned by a renewed faith in particularity that often eschews the large claims of “theory.” Yet rejecting general principles altogether risks a certain overparticularization that fails to imagine how the general and the particular might be held in perpetual tension without either finally coming to absorb the other. If “social death” names an ontological deprivation that attends the lives of racial and sexual minorities, there is no reason why these specificities cannot and should not be brought to bear on the generalizable condition of spectrality, and vice versa. Not to negotiate this tension between general and particular, between spectrality and social death, is to miss the opportunity to interrogate **how** the **social death of racial and sexual others** **is produced** in and **through the disavowal of the spectral.** The insistence on the ontology of the socially dead, in other words, merely reverses and reinscribes the division between life and death, presence and absence, that conditions the abjection of queer lives. In a passage from The Psychic Life of Power, for instance, Judith Butler addresses how we might counter the abjection of those bodies deemed expendable, “gay people, prostitutes, drug users, among others . . . [who] are dying or already dead.”9 While she asks us to consider if “‘social existence’” for the majority is purchased through “the production and maintenance of the socially dead,” she does not pursue the question of how the construction of the socially dead is predicated on the **fiction of social being, of being as presence** (PLP 27). Dedicating her work toward expanding “a field of possibilities for bodily life,” she theorizes against the insidious means by which the abjection of minority bodies produces them as “shadowy contentless figure[s] for something not yet made real.”10 **But this invocation of ontology**—**intoned in the suggestion that these ghostly shadows might someday be embodied**— would appear to conflate social death or abjection with what we are calling spectrality. **This conflation denies the possibility of the specter**, of that which is neither spirit nor body. As Derrida notes in Specters of Marx: “For there is no ghost, there is never any becoming specter of the spirit without at least an appearance of flesh. . . . For there to be a ghost, there must be a return to a body, but to a body that is more abstract than ever” (202). Although the possibility of the specter requires a certain return to the body, that body never fully returns to itself. Indeed, the return of the body to itself is forever deferred by its “hauntological” condition. Following Derrida, we might consider that all bodies live in the “shadowy regions of ontology,” **all bodies are hauntological**, not ontological. Only by virtue of the fiction of ontology do certain bodies appear to be more present than others. The social existence of the majority, of those white, male bodies that supposedly matter, is conditioned by a certain **disavowal and projection** **of** the body’s **finitude**. The socially dead are thus made to stand in for the death that haunts each and every life. While the interrogation of the body as a stable marker of identity would appear to have received its most well-known and persistent challenge in Butler’s anti-epistemological accounts of corporeality, **the equation of the body with presence remains very much intact.** Indeed, I would suggest that, despite the frequent characterization of her theorizations of corporeality as “deconstructive” by both her supporters and her most virulent critics (Nussbaum or ˇZizˇek for instance), they remain squarely within a metaphysical tradition of presence that disavows finitude, that is, within that very tradition that deconstruction has made it its mission to displace.11

The alternative is to vote negative to endorse the politics of spectrality. This shatters the Hegelian dialectic of presence that sustains all violence against the abject.

Peterson ‘6

Christopher, “The Return of the Body: Judith Butler's Dialectical Corporealism,” Discourse, 28.2&3, Spring & Fall 2006, pp. 153-177 (Article)

Precarious Bodies

A return to ontology in Precarious Life is also legible in its tendency to reduce corporeal vulnerability to the threat of external violence. Certainly the events of 9/11 and the wars in Afghanistan and Iraq serve as devastating reminders of the body’s mortality. But corporeal vulnerability does not have its origin in external violence. Corporeal vulnerability does not commence with our exposure to others. The body’s **finitude**, its spectrality, **is inherent**. As Freud puts it, however, “at bottom no one believes in his own death. . . . Every one of us is convinced of his own immortality.”35 The political stratification that positions the socially alive against the socially dead thus also describes the unequal distribution of mortality/immortality more generally.36 If no one believes in his or her own death, then death always “happens” to others. As Heidegger observes, the recognition that “‘one dies’ spreads the opinion that death, so to speak, strikes the they” (234). For Heidegger, however, the futural “not yet” that attends the “certain” but “indeterminate” possibility of death denies how being is always “ahead of itself” in its anticipation of death. Hence, while the move from the living body to the precarious body begins to address the problem of finitude so largely absent from Butler’s earlier work, her tendency to reduce finitude to the problem of external threat and violence does not awaken to the originary mourning that haunts all bodies. **Avowing mortality** and mourning might not only forestall the violent response to 9/11, but could also challenge the reduction of America’s “internal” racial and sexual others to the liminal status of social death. The construction of the Muslim other as always already dead describes but the most recent version of a long American tradition that secures the “immortality” of the “majority” at the expense of the mortalization of the nation’s racial and sexual others. 37 Indeed, the belief that “death strikes others” is most violently felt in the domain of racial and sexual politics. What I have been calling the “redoubled ghostliness” of racial and sexual minorities describes an intimate contact with both social and material death. As Karla Holloway observes in Passed on: African-American Mourning Stories, black Americans are unusually at risk for an “untimely death,” from specific forms of racial violence, such as lynching and capital punishment, to all varieties of disease.38 Given the homophobic equation of homosexuality and death that has characterized the response to the AIDS crisis, sexual minorities also bear the burden of the death that heterosexist culture denies. Without diminishing the reality of this heightened proximity to death, however, **we must also recognize that finitude**—as a generalizable condition of existence—**always comes “before its time**.” While some of us are socially dead, we are all specters. If self-presence is always tied to the belief in one’s immortality, then **only a theory that dislodges corporeality from the present** **can challenge the unacknowledged belief that death is what happens to others.** “The ultimate queer act”—to modify Holland’s assertion with which we began—would be finally to displace the dialectic of being/non-being, to resist the racist and heterosexist disavowal of spectrality through which the abjection of queers both emerges and is sustained.

## off 3

The 1AC’s combines music and text by narrating poetry over an instrumental soundtrack— this is in contrast to absolute music, free of text—

Kivy, professor of philosophy at Rutgers University, 2009

(Peter, *Antithetical Arts*, pg. 23)

Even though, with the benefit of hindsight, Wackenroder's characterization of the purely musical experience seems to us very like the formalism of such figures as Bell, Fry, and their musical counterparts, it is obvious that it was no easy path from the narrative model of musical interpretation and appreciation to the formalism of Hanslick, which we tend to think of as the first substantial version of the doctrine in music. Herder described what he saw as the struggle of music to become an autonomous art form, free of “foreign entanglements.” “**The slow progress of music’s history amply demonstrates how hard it has been for music to cut** herself **free from her sisters**—mime and **word**—and to establish herself **as an independent art**."28 It was a struggle too, to find a way of understanding, describing, appreciating the “new” **absolute music** in absolutist terms, **free of narrative content**—a struggle it seems to me in lock step with the struggle of Kant and Hegel to conceive of music, free of text, as an art form at all.

Absolute music is of intrinsic worth beyond price – its value and exaltation is its own defense

Kivy, professor of philosophy at Rutgers University, 2009

(Peter, *Antithetical Arts*, pg. 259-260)

My defense is simplicity itself. **The feeling of** ecstasy, **exaltation**, passionate enthusiasm, or however you want to characterize it, **that** **absolute music in its highest manifestations calls forth** in its devotees, **is of an intrinsic worth beyond price**, and during the time one is experiencing it one is, on that account, a better person. It may not have a lasting effect, or motivate one to noble acts. In fact, as I have argued in Chapter 10, I do not think that the musical emotion, of which I speak, does motivate, or have a lasting effect on human character. That, however, is beside the point; for as Robert Solomon observes: "It is tempting for philosophers (with an ax to grind) to say that what makes love and other feelings admirable is their consequences, the fact that they tend to result in morally good actions . . . [B]ut the worth of our feelings does not just depend on the desirability of any resultant actions or their consequences."

**The experience of absolute music**, as above described, needs no defense or **is its own defense**, if one puts aside what I have called the pervasive mentality of the puritanical utilitarian who requires some kind of practical payoff for every human experience or activity. There is nothing wrong with empty pleasure to the ear (and mind) that absolute music affords in such depth and abundance. There is nothing wrong with absolute music affording that and nothing more. There is everything right with it. And what the musical Gradgrinds offer us as the supposed extra-musical payoff of absolute music is too poor a stuff to make anything worthwhile that isn‘t worthwhile to begin with. If absolute music is not worthwhile without it, it is not worthwhile with it. But it is worthwhile without it because it affords a deep,satisfying, even exalting experience; and such experience is not and need not to be a means to something else; it is an end in itself, as all pleasure is, in the broad (philosopher’s) sense of the word. Nor, for the matter of that, does the pleasure of push-pin need a defense. And the only defense one can put up for absolute music over push-pin is the depth and intensity of the experience that its devotees undergo. Their credibility is enhanced, of course, if they have had the push-pin experience as well, with which to compare it; and that perhaps is what reasonably remains of Mill's insistence that the arbiter of quality in pleasure is the one who has been on both sides of the tracks.

Our alternative is the music and the poems but separate in time – it is the content of the 1AC, but the music stands on its own, inexpressible – opening radical opportunities for resistance and protest

Bauer, professor at McGill University, 1999

(*Adorno’s Nietzschean Narratives*, pg. 201-202)

In the essay. the concepts form configurations independently of a static framework; the configurations crystallize within a dynamic forcefield, leading to an intellectual encounter that evokes the aesthetic experience. The thoughts developed in the essay do “not progress in a single direction; instead the moments are interwoven as in a carpet.”“’ The logic of the essay is related to the logic of art and music, for it develops according to its own precepts. Attempting to release the latent forces within it, the essay is not opposed to logic but rather gives back to language what discursive logic has taken away. Music, the most immaterial of all arts, represents most closely the utopian ideal of this nonconceptual expression. In his account of the development of the concept of absolute music, Dahlhaus asserts the “topos of Unsayability" as the central mark of modem art, literature, and music.“1 Based upon modern skepticism and the distrust of discursive language, **music**—because of its nonconceptual nature—**takes on a privileged role in expressing the inexpressible**. Dahlhaus maintains that Adorno’s Aesthetic Theory might be the first aesthetic theory in which the term ‘art’ can be substituted by the word ‘music’.62 Andrew Bowie sees Adomo in the tradition of a counterdiscourse of modernity, that is, a counterdiscourse to Hegel in which the key players are Schelling, Holderlin, and. of course, Nietzsche.“ According to Bowie‘s argument, “music’s resistance to wholesale interpretation and conceptual determination" explain its philosophical significance to modern thought and to Adomo, and Adomo’s emphasis on music attempts to salvage “at least some aspects of subjectivity in a world increasingly dominated by mechanisms which threaten to abolish it.”

Without the essay, a critique of ideology would be unthinkable, because this form does not duplicate on a stylistic level what it denies in its argument. As a stylistic strategy for **a radicalized critique of rationality**, **metaphysics**, **and enlightenment**, the essay not only thematizes issues of representation but also embodies the very criticism it brings forth in its arguments, particularly in its openness of structure and negation of systems and identity. **In its affinity to music**, as well as figural and pictorial representation, **the essay represents moments of resistance and protest paralleling those of autonomous art**, while the process of writing essays parallels artistic composition in that the composer/writer/painter follows the logic of the material rather than imposing upon it external norms of conceptual design and order. The essay coordinates rather than subordinates and becomes readable as a dynamic forcefield of constellations. As a text, “The Essay as Form" itself practices what it preaches. Adomo explores his subject not by attempting to define it, but by circling around his topic in order to explore its different potentials. While he refers to the historical tradition of the essay, he resists establishing a consistent narrative on its origin and development. His essay on the essay is an unsystematic explication of this form's functions and potential, which insists upon illuminating the discontinuities of the topic in its style and structure. Simultaneously, this text serves as a defense of the essay against the demands of the conventions of disciplinary discourses. Behind “The Essay as Form” resides the probable intention to testify to the freedom of the spirit and to show the author‘s effort as a process of labor. For this reason, Adomo’s text seems at times convoluted and exhibits the same tendency toward overdetermination that Bubner notes in relation to Adomo’s understanding of the aesthetic experience. While at the beginning Adomo explains the essay’s diminished reputation in Germany as a result of the German rigidity that has little patience with experimental and freespirited explorations, at the end he makes similar assertions, with the difference that they are now turned into negative rather than positive affirmations of the essay’s potential. Ultimately, Adomo emphasizes the essay’s critical dimension and its oppositional force against the orthodoxy of philosophical thought. The affirmation of the “freedom of the spirit" culminates in the assertion that the inner law of the essay is “heresy."

## case

There is demonstrable progress in racial inequality—this is *not* to say that everything is perfect by any means, but it does prove that pragmatic change is possible within the current system

Feldscher, Harvard School of Public Health, 9/19/’13

(Karen, “Progress, but challenges in reducing racial disparities,” http://www.hsph.harvard.edu/news/features/progress-but-challenges-in-reducing-racial-disparities/)

September 19, 2013 — Disparities between blacks and whites in the U.S. remain pronounced—and health is no exception. A panel of experts at Harvard School of Public Health (HSPH) discussed these disparities—what they are, why they persist, and what to do about them—at a September 12, 2013 event titled “Dialogue on Race, Justice, and Public Health.” The event was held in Kresge G-1 and featured panelists Lisa Coleman, Harvard University’s chief diversity officer; David Williams, Florence Sprague Norman and Laura Smart Norman Professor of Public Health in the HSPH Department of Social and Behavioral Sciences; Chandra Jackson, Yerby Postdoctoral Research Fellow in the HSPH Department of Nutrition; and Zinzi Bailey, a fifth-year doctoral student in the HSPH Department of Social and Behavioral Sciences. Robert Blendon, Richard L. Menschel Professor of Public Health and Professor of Health Policy and Political Analysis at HSPH, moderated the discussion. Gains, but pains Health care disparities are troubling, Coleman said. One study found that doctors recommended coronary revascularization—bypass surgery that replaces blocked blood vessels with new ones—among white patients with heart disease 50% of the time, but just 23% of the time for blacks. Black women are less likely to be given a bone marrow density test than white women, even when it’s known they’ve had prior fractures. And the black infant mortality rate is 2.3 times higher than that of non-Hispanic whites. Each speaker acknowledged that racial minorities have made significant gains over the past half-century, but said there is much more work still to do. They cited statistics providing stark evidence of continuing disparities in health, wealth, education, income, arrest and incarceration rates, foreclosure rates, and poverty. Coleman called the data “disconcerting; in some cases, alarming.” Schools are desegregated, she said, but not integrated; median income is $50,000 per year for whites but $31,000 a year for blacks and $37,000 a year for Hispanics; since the 1960s, the unemployment rate among blacks has been two to two-and-a-half times higher than for whites; and one in three black men can expect to spend time in prison during their lifetimes. Blendon shared results from surveys that accentuate sharp differences of opinion about how well blacks are faring in the U.S. For instance, in a survey that asked participants if they thought that the lives of black Americans had changed dramatically over the past 50 years, 54% of whites said yes but only 29% of blacks did. Another survey asked whether or not people approved of the verdict in the George Zimmerman trial; 51% of whites approved but only 9% of blacks did. Reducing disparities through research, education Jackson talked about growing up in a segregated neighborhood in Atlanta and attending a school with 99% black students and inadequate resources. She became the first in her family to attend college. Now, through her research, she hopes to expose and reduce racial health disparities. In a recent study in the American Journal of Epidemiology, Jackson and colleagues reported that blacks—particularly black professionals—get less sleep than whites, which can have potentially negative impacts on health. Bailey discussed what’s known as the “school-to-prison pipeline”—a trajectory in which black teens do poorly in school, get held back a grade, drop out, commit a crime, then end up in jail. On the flip side, she said, there are “diversity pipelines” to recruit minority students into higher education. “Often these programs target students who have already avoided the school-to-prison pipeline,” Bailey said, noting that she would like to see higher education institutions connect with black students at earlier ages to steer them toward positive choices.

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

The aff’s claim state engagement is impossible 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.

No social death – history proves

Vincent **Brown**, Prof. of History and African and African-American Studies @ Harvard Univ., December 20**09**, "Social Death and Political Life in the Study of Slavery," American Historical Review, p. 1231-1249

THE PREMISE OF ORLANDO PATTERSON’S MAJOR WORK, that enslaved Africans were natally alienated and culturally isolated, was challenged even before he published his influential thesis, primarily by scholars concerned with “survivals” or “retentions” of African culture and by historians of slave resistance. In the early to mid-twentieth century, when Robert Park’s view of “the Negro” predominated among scholars, it was generally assumed that the slave trade and slavery had denuded black people of any ancestral heritage from Africa. The historians Carter G. Woodson and W. E. B. Du Bois and the anthropologist Melville J. Herskovits argued the opposite. Their research supported the conclusion that while enslaved Africans could not have brought intact social, political, and religious institutions with them to the Americas, they did maintain significant aspects of their cultural backgrounds.32 Herskovits ex- amined “Africanisms”—any practices that seemed to be identifiably African—as useful symbols of cultural survival that would help him to analyze change and continuity in African American culture.33 He engaged in one of his most heated scholarly disputes with the sociologist E. Franklin Frazier, a student of Park’s, who empha- sized the damage wrought by slavery on black families and folkways.34 More recently, a number of scholars have built on Herskovits’s line of thought, enhancing our understanding of African history during the era of the slave trade. Their studies have evolved productively from assertions about general cultural heritage into more precise demonstrations of the continuity of worldviews, categories of belonging, and social practices from Africa to America. For these scholars, the preservation of distinctive cultural forms has served as an index both of a resilient social personhood, or identity, and of resistance to slavery itself. 35

Scholars of slave resistance have never had much use for the concept of social death. The early efforts of writers such as Herbert Aptheker aimed to derail the popular notion that American slavery had been a civilizing institution threatened by “slave crime.”36 Soon after, studies of slave revolts and conspiracies advocated the idea that resistance demonstrated the basic humanity and intractable will of the enslaved—indeed, they often equated acts of will with humanity itself. As these writ- ers turned toward more detailed analyses of the causes, strategies, and tactics of slave revolts in the context of the social relations of slavery, they had trouble squaring abstract characterizations of “the slave” with what they were learning about the en- slaved.37 Michael Craton, who authored Testing the Chains: Resistance to Slavery in the British West Indies, was an early critic of Slavery and Social Death, protesting that what was known about chattel bondage in the Americas did not confirm Patterson’s definition of slavery. “If slaves were in fact ‘generally dishonored,’ ” Craton asked, “how does he explain the degrees of rank found among all groups of slaves—that is, the scale of ‘reputation’ and authority accorded, or at least acknowledged, by slave and master alike?” How could they have formed the fragile families documented by social historians if they had been “natally alienated” by definition? Finally, and per- haps most tellingly, if slaves had been uniformly subjected to “permanent violent domination,” they could not have revolted as often as they did or shown the “varied manifestations of their resistance” that so frustrated masters and compromised their power, sometimes “fatally.”38 The dynamics of social control and slave resistance falsified Patterson’s description of slavery even as the tenacity of African culture showed that enslaved men, women, and children had arrived in the Americas bearing much more than their “tropical temperament.”

The cultural continuity and resistance schools of thought come together pow- erfully in an important book by Walter C. Rucker, The River Flows On: Black Re- sistance, Culture, and Identity Formation in Early America. In Rucker’s analysis of slave revolts, conspiracies, and daily recalcitrance, African concepts, values, and cul- tural metaphors play the central role. Unlike Smallwood and Hartman, for whom “the rupture was the story” of slavery, Rucker aims to reveal the “perseverance of African culture even among second, third, and fourth generation creoles.”39 He looks again at some familiar events in North America—New York City’s 1712 Coromantee revolt and 1741 conspiracy, the 1739 Stono rebellion in South Carolina, as well as the plots, schemes, and insurgencies of Gabriel Prosser, Denmark Vesey, and Nat Turner—deftly teasing out the African origins of many of the attitudes and actions of the black rebels. Rucker outlines how the transformation of a “shared cultural heritage” that shaped collective action against slavery corresponded to the “various steps Africans made in the process of becoming ‘African American’ in culture, orientation, and identity.”40

Afrofuturism reifies whiteness and black inferiority

J. Griffith Rollefson, 2008, The “Robot Voodoo Power” Thesis: Afrofuturism and Anti-Anti-Essentialism from Sun Ra to Kool Keith, Black Music Research Journal Vol. 28, No. 1,

Since the term “Afrofuturism” first appeared, scholars have seized upon the idea as a way to critique the reified distance between racialized fictions of black magic and white science—often in satirical and even playful ways. Yet, the very premise of Afrofuturism relies on the normalized disparity between blackness and the cybernetic technological future—a binary that is reflected in the racially coded phrase “digital divide.” As Nelson explains: “Forecasts of a utopian (to some) race-free future and pronouncements of the dystopian digital divide are the predominant discourses of blackness and technology in the public sphere. . . . Blackness gets constructed as always oppositional to technologically driven chronicles of progress” (2002, 1). Thus, the danger with the Afrofuturist strategy is that it can quickly turn into a reification of black inferiority through simple contrast with supposed “white” technologies.

**Metaphor risks misreading and cannot be understood universally, preventing action**

**Booth 74** (Booth, Wayne C., professor emeritus of literature at the University of Chicago, “A Rhetoric Of Irony”, p. 40-41) FS

As we have seen (pp. 21-27), all non-literal language, every “abnormal” way of saying anything, invites us to reject a lower literal interpretation and climb to a better one. “He looks at life through rose-colored glasses”—we are faced here with a demand for a metaphorical reconstruction that is superior, in truth, in perceptiveness, in imaginative skill, to the literal reading which is trivial or even nonsensical. But note again that the rejected meaning is, in all metaphor and simile, so uninventing or irrelevant that there is really no contest. “Business is a rat-race.” “She is an elephant.” “My love is like a red, red rose.” The strictly literal meanings are so obviously unlikely that only metaphoric meaning has sufficient appeal to be considered seriously. Though a literal image of rat-races, elephants, or roses may remain part of our final reconstruction, insofar as they do, they in no sense cancel or subtract from non-literal views that the reader has come to. But in stable irony (whether employing metaphor or not) the superiority of the new meaning is an aggressive or competitive superiority—the rejected meaning is in some real sense a rival or threat. Someone *could* say it and mean it literally, yet it must be totally rejected—though of course it is still somehow kept in mind, as part of our awareness of the irony. “A Daniel come to judgment.” The satiric force when Shylock’s enemies in *The Merchant of Venice* turn his statement into irony comes precisely because he has earlier applied the same metaphor to Portia without irony. When irony succeeds, somehow the energy our minds put into recognizing this type of conflict and making our choices is transferred to one element or another in the ironic scene: either negatively against the victim, as in the standard (but often challenged) reading of Shylock, or affirmatively on behalf of the final reconstruction: having decided for myself that the ostensible judgment must be somehow combatted, I make the new position mine with all the force that is conferred by my sense of having judged independently. After all, I built this superior dwelling place “for myself.”

# 2NC

## 2nc race

Engaging the law is key to transforming racist structures—our vision of inclusive debate incorporating policy reform doesn’t rely on a rationalist subjectivity, it doesn’t exclude alternative models of knowledge production, and it’s uniquely liberatory

Harris, professor of law – UC Berkeley, ‘94

(Angela P., 82 Calif. L. Rev. 741)

Reacting to the nihilist threat, some writers have argued that postmodernism is antithetical to feminism and should be rejected by feminist theorists. n93 Race-crits could take a similar position, rejecting postmodernist philosophizing in favor of the certainties of universal truth and justice. In my view, however, this response would be a mistake for two reasons. First, postmodernism does not represent an independent alternative to modernism that can be accepted or rejected; it is the voice of modernism's discontents, and as such is not easily stilled. Second, part of the reason why race-crits have tried to distance themselves from traditional civil rights scholarship is precisely that the old verities, the old optimistic faith in reason, truth, blind justice, and neutrality, have not brought us to racial justice, but have rather left us "stirring the ashes." n94 History has shown that racism can coexist happily with formal commitments to objectivity, neutrality, and colorblindness. Perhaps what CRT needs is simply a redoubled effort to reach true objectivity and neutrality. But, then again, perhaps those concepts themselves need reexamination. [\*760] If race-crits can neither reject postmodernism nor accept it wholeheartedly without undermining the CRT project itself, what (to ask the legal scholar's perennial normative question) should we do? To talk as if one has the choice to "accept" or "reject" these world views is certainly misleading. We live in a political and legal world shaped by modernism; we cannot step out of it. Nor can we, as good modernist intellectuals, ignore modernism's discontents. As Anthony Cook and others have written, the task should not be to try to somehow resolve the philosophical tension between modernism and postmodernism, but rather consciously to inhabit that very tension. n95 This work requires both a commitment to modernism and a willingness to acknowledge its limits. At its best, it inspires a jurisprudence of reconstruction - the attempt to reconstruct political modernism itself in light of the difference "race" makes. Race-crits, along with other outsider scholars, have a distinctive contribution to make to this endeavor. The source of this contribution, I argue in this Section, is an engagement with "the politics of difference." Through their commitment both to anti-racism and to affirming the cultural "differences" that the concept of "race" has produced, race-crits bring a distinctive perspective to the jurisprudential "problem of the subject." n96 More broadly, this dual commitment to eliminating oppression and celebrating difference impels race-crits to live in the tension between modernism and postmodernism, transforming political modernism in the process. In this latter project, race-crits are part of a global movement by intellectuals in previously colonized nations, not to abandon the Enlightenment ideals of freedom and liberal democracy, but to make good on their promises. A. CRT and the Problem of the Subject Unlike crits, whose primary intellectual-political commitment is to criticism itself, race-crits hold a dual commitment to anti-racist critique and to maintaining the distinctive cultures formed in part by concepts of "race." This dual commitment engages CRT in what I call the "politics of difference." One notable characteristic about contemporary American left political movements is their obsession with issues of identity. n97 The second wave of [\*761] the women's movement and the Civil Rights Movement, for example, built their strength on reconceiving their constituents' collective identities; subsequent movements such as Gay Liberation and its contemporary descendants have similarly engaged in "identity politics." n98 In these movements, the construction of one's identity has been both a personal and a political act, linking the individual with a distinct social and political community. n99 Rather than supporting assimilation to the dominant culture, the new social movements have demanded a recognition of their members' "difference." This claim to equality based not on sameness but rather on difference is at the heart of the politics of difference. Intellectuals' engagement in the politics of difference has resulted in a rejection of the binary distinction between "same" and "different" itself. Instead, these scholars see "identity" as a complex and changing interaction between internal and external forces, between individual agency and structures of power. n100 For example, by complicating the notion of "female identity," feminist theorists have tried to move beyond the proposition that gender equality requires either "the same" treatment or "different" (usually meaning "special," and hence disfavored) treatment. n101 Instead, feminist theorists have explored how both "sameness" and "difference" are based on a non-neutral, male [\*762] standard. n102 Equality in this formulation demands transformation of the existing structure, not just tolerance of or remediation for those who are "different." Second-wave crits have argued that the reconstruction of political modernism in light of postmodernist critique requires addressing the problem of the subject. n103 Just whom is being spoken of when law review authors recommend that "we" do this or that? What issues are being avoided when legal writers seek to understand the legal system without asking how understanding changes the self? n104 Race-crits, like other intellectuals engaged in the politics of difference, are well situated to speak to "the problem of the subject." The language of race creates, maintains, and destroys subjects, both inside and outside the law. The study of race is in part the study of how individual personalities are melted down into collective subjects. It is also the study of how racialized subjects can be subjected to, yet not represented in, the law. In coming to terms with the long exclusion of people of color from full legal "belonging," race-crits seek not just to expand the subject "we the people," but to turn a critical eye on the legal subject itself. Just as feminist demands for equality require a transformation of traditional understandings of families and markets, n105 race-crit demands for equality under law require a transformation of traditional understandings of the legal subject. This task forces intellectuals to live in the conflict between modernism and postmodernism. The new social movements based on "difference" have renounced assimilation as the path toward equality and are suspicious of the old faith in integration. n106 At the same time, most of these movements are committed to seeking equality, justice, and pluralism within the nation rather than as separate political sovereigns. n107 This political task of [\*763] giving a new meaning to the phrase "e pluribus unum" thus demands both a commitment to political modernism and a deep skepticism of it. B. CRT and Resistance Culture For people of color, the politics of difference within the United States can be understood within the broader context of global post-colonialism. Edward Said has made a study of how the West justified colonialism, how colonized peoples resisted it, and how the cultural dialogue between colonizer and colonized is evident in the art and literature of each. n108 Since the end of formal colonialism, n109 Said argues, a distinctive "resistance culture" has emerged from formerly colonized peoples. Resistance culture, as Said describes it, consists of three projects. First is the reconstitution of the formerly colonized nation through consolidating a national language and national culture (a project that is always the product of invention rather than simple "recovery"). n110 Second is what Said calls "the voyage in": the "conscious effort to enter into the discourse of Europe and the West, to mix with it, transform it, to make it acknowledge marginalized or suppressed or forgotten histories." n111 Third, according to Said, resistance culture involves "a noticeable pull away from separatist nationalism toward a more integrative view of human community and human liberation." n112 Reading the history of "racial minorities" in the United States as part of the larger history of western colonialism, n113 race-crits are involved in the [\*764] project of "resistance culture" as well. Situated within the United States, where separatist nationalism has never been a viable alternative, n114 the domestic politics of difference has focused on Said's first and second projects: the constitution or reconstitution of the subordinated community and the transformation of the dominant community. Storytelling has contributed to much of the first project. Storytelling serves to create and confirm identity, both individual and collective. n115 As William Eskridge has argued, storytelling helps build new communities: stories of what it means to be gay and lesbian, for example, help individual gay and lesbian people locate themselves within a community and give the gay and lesbian community a collective sense of itself as an agent. n116 At the personal level, this community-building function is similar to what 1970s feminists termed "consciousness raising." n117 Storytelling in this sense is myth-making: the creation of a new collective subject with a history from which individuals can draw to shape their own identities. Literary and cultural critics have participated in the second aspect of resistance culture, the project of "writing back." For example, in the context of American literary studies, Toni Morrison argues that "Africanism" - the reference in literary works to an imaginary "Africa" has become, in the Eurocentric tradition that American education favors, both a way of talking about and a way of policing matters of class, sexual license, and repression, formations and exercises of power, and meditations on ethics and accountability. Through the simple expedient of demonizing and reifying the range of color on a palette, American Africanism makes it possible to say and not say, to inscribe and erase, to escape and engage, to act out and act on, to historicize and render timeless. It provides a way of contemplating [\*765] chaos and civilization, desire and fear, and a mechanism for testing the problems and blessings of freedom. n11 Morrison's project is to transform the reader's understanding of the American literary canon by calling her attention to how complexities within American social and political culture have been made into questions of "race." n119 Her effort, however, is not to throw certain works out of the canon and replace them with others, but rather to deepen the reader's understanding both of the works within and without the canon and of how and why canon formation itself takes place. Robert Williams is engaged in a similar task in his article in this Symposium. Williams points out that the history of the Encounter era in North America is not only one of conflict but also one of mutual accommodation. n120 In telling the story of the English-Iroquois Covenant Chain alliance, Williams does the historical work of adding back to the American legal and political tradition a story of Iroquois creativity and power that has been forgotten or suppressed. Williams engages in the transformational work of "exploring the commensurability of this North American indigenous vision of law and peace between different peoples with contemporary understandings of the problem of achieving human solidarity and accommodation in a multicultural world." n121 By recovering this and other neglected dialogues, race-crits can begin to reconstruct modern political theory. C. CRT as Reconstruction Jurisprudence Within legal studies, the attempt to use the dissonance between modernism and postmodernism creatively on behalf of people of color is what I call "reconstruction jurisprudence." Mari Matsuda, who coined this term, describes it as having a double meaning. n122 First, reconstruction jurisprudence is meant to distinguish CRT from CLS's project of deconstruction. Race-crits have rejected the project of "total critique" and are committed to transforming modernist paradigms as well as criticizing them. Second, the word "reconstruction" refers to the legacy of slavery in the New World and the unfinished revolutions of the First and Second Reconstructions. My third connotation for "reconstruction jurisprudence" is the project of "writing back" to white-dominated legal rules, reasoning, and institutions. The first step is the self-conscious formation of identity groups that [\*766] have been subject to racial oppression and now demand equality - a formation accomplished by collective myth-making. The second step involves the recovery and reworking of what has been lost or suppressed concerning "race" in legal doctrine and policy. The third step is the work of transforming existing jurisprudence and political theory.

## 2nc at case da—short

Topical version of the aff solves

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**.

## 2nc at: roleplaying bad

Arguing that a current government policy is bad is not roleplaying

Scott Harris, Director of Debate, Kansas University, 2013, This Ballot, http://www.cedadebate.org/forum/index.php?topic=4762.0

While this ballot has meandered off on a tangent I’ll take this opportunity to comment on an unrelated argument in the debate. Emporia argued that oppressed people should not be forced to role play being the oppressor. This idea that debate is about role playing being a part of the government puzzles me greatly. While I have been in debate for 40 years now never once have I role played being part of the government. When I debated and when I have judged debates I have never pretended to be anyone but Scott Harris. Pretending to be Scott Harris is burden enough for me. Scott Harris has formed many opinions about what the government and other institutions should or should not do without ever role playing being part of those institutions. I would form opinions about things the government does if I had never debated. I cannot imagine a world in which people don’t form opinions about the things their government does. I don’t know where this vision of debate comes from. I have no idea at all why it would be oppressive for someone to form an opinion about whether or not they think the government should or should not do something. I do not role play being the owner of the Chiefs when I argue with my friends about who they should take with the first pick in this year’s NFL draft. I do not role play coaching the basketball team or being a player if I argue with friends about coaching decisions or player decisions made during the NCAA tournament. If I argue with someone about whether or not the government should use torture or drone strikes I can do that and form opinions without ever role playing that I am part of the government. Sometimes the things that debaters argue is happening in debates puzzle me because they seem to be based on a vision of debate that is foreign to what I think happens in a debate round.

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.**

## at: case = DA

Decisionmaking is the only impact unique to debate---you can learn anything else from books or discussions—only separate decisionmaking education makes all other education more valuable

Arvai et al, professor – School of Natural Resources @ The Ohio State University, ‘4

(Joseph L, “Teaching Students to Make Better Decisions About the Environment: Lessons From the Decision Sciences,” Journal of Environmental Education, Vol. 36, No. 1, June)

How do we achieve this goal of facilitating more thoughtful decisions? One strategy involves improving students’ technical knowledge base (e.g., in biology, ecology, chemistry) as a means of creating favorable attitudes toward the promotion of better environmental quality (Ramsey & Rickson, 1976). As many researchers have pointed out, however, focusing on enhancing technical knowledge without also teaching problem-solving skills will lead to substantial shortcomings with respect to promoting thoughtful decisions (e.g., see Hungerford, Peyton, & Wilke, 1980). An obvious solution, therefore, is to include in curricula elements that address the need for knowledge about both natural systems and “action” (i.e., decision-making) skills (Simmons, 1991). Yet, as Hungerford and Volk (1990) point out, focusing on the role of human judgments and behavior (in addition to enhancing technical knowledge) in the context of the environment makes instructional planning extremely difficult. In many cases, the added difficulty acts as a deterrent to these integrated curricula and provides de facto reinforcement for the model that enhanced knowledge leads to better decisions. One suggested strategy for overcoming this difficulty is to teach students the skills to critically analyze environmental issues (e.g., how to articulate research questions, obtain information from primary and secondary sources, and interpret data). At the end of such an exercise, students work on the development of “issue-resolution action plans” and then “decide whether they want to actually implement the plan of action” (Hungerford & Volk, 1990, p. 16). We view such an approach as laudable. We would take this suggestion a step further, however, and add that just as students must learn skills for critical analysis, so too must they learn skills for decision making (which includes developing alternative courses of action and making decisions about implementation). Learning these decision-making skills involves two steps: First, students (and in many cases, teachers) must be taught to recognize common obstacles to thoughtful (or high-quality) decision making. Second, they must acquire skills to overcome them. These obstacles and skills are the focus of this article.

# 1NR

## K extensions

The 1AC’s combines music and text by narrating poetry over an instrumental soundtrack— this is in contrast to absolute music, free of text—

Kivy, professor of philosophy at Rutgers University, 2009

(Peter, *Antithetical Arts*, pg. 23)

Even though, with the benefit of hindsight, Wackenroder's characterization of the purely musical experience seems to us very like the formalism of such figures as Bell, Fry, and their musical counterparts, it is obvious that it was no easy path from the narrative model of musical interpretation and appreciation to the formalism of Hanslick, which we tend to think of as the first substantial version of the doctrine in music. Herder described what he saw as the struggle of music to become an autonomous art form, free of “foreign entanglements.” “**The slow progress of music’s history amply demonstrates how hard it has been for music to cut** herself **free from her sisters**—mime and **word**—and to establish herself **as an independent art**."28 It was a struggle too, to find a way of understanding, describing, appreciating the “new” **absolute music** in absolutist terms, **free of narrative content**—a struggle it seems to me in lock step with the struggle of Kant and Hegel to conceive of music, free of text, as an art form at all.

Absolute music is of intrinsic worth beyond price – its value and exaltation is its own defense

Kivy, professor of philosophy at Rutgers University, 2009

(Peter, *Antithetical Arts*, pg. 259-260)

My defense is simplicity itself. **The feeling of** ecstasy, **exaltation**, passionate enthusiasm, or however you want to characterize it, **that** **absolute music in its highest manifestations calls forth** in its devotees, **is of an intrinsic worth beyond price**, and during the time one is experiencing it one is, on that account, a better person. It may not have a lasting effect, or motivate one to noble acts. In fact, as I have argued in Chapter 10, I do not think that the musical emotion, of which I speak, does motivate, or have a lasting effect on human character. That, however, is beside the point; for as Robert Solomon observes: "It is tempting for philosophers (with an ax to grind) to say that what makes love and other feelings admirable is their consequences, the fact that they tend to result in morally good actions . . . [B]ut the worth of our feelings does not just depend on the desirability of any resultant actions or their consequences."

**The experience of absolute music**, as above described, needs no defense or **is its own defense**, if one puts aside what I have called the pervasive mentality of the puritanical utilitarian who requires some kind of practical payoff for every human experience or activity. There is nothing wrong with empty pleasure to the ear (and mind) that absolute music affords in such depth and abundance. There is nothing wrong with absolute music affording that and nothing more. There is everything right with it. And what the musical Gradgrinds offer us as the supposed extra-musical payoff of absolute music is too poor a stuff to make anything worthwhile that isn‘t worthwhile to begin with. If absolute music is not worthwhile without it, it is not worthwhile with it. But it is worthwhile without it because it affords a deep,satisfying, even exalting experience; and such experience is not and need not to be a means to something else; it is an end in itself, as all pleasure is, in the broad (philosopher’s) sense of the word. Nor, for the matter of that, does the pleasure of push-pin need a defense. And the only defense one can put up for absolute music over push-pin is the depth and intensity of the experience that its devotees undergo. Their credibility is enhanced, of course, if they have had the push-pin experience as well, with which to compare it; and that perhaps is what reasonably remains of Mill's insistence that the arbiter of quality in pleasure is the one who has been on both sides of the tracks.

Our alternative is the music and the poems but separate in time – it is the content of the 1AC, but the music stands on its own, inexpressible – opening radical opportunities for resistance and protest

Bauer, professor at McGill University, 1999

(*Adorno’s Nietzschean Narratives*, pg. 201-202)

In the essay. the concepts form configurations independently of a static framework; the configurations crystallize within a dynamic forcefield, leading to an intellectual encounter that evokes the aesthetic experience. The thoughts developed in the essay do “not progress in a single direction; instead the moments are interwoven as in a carpet.”“’ The logic of the essay is related to the logic of art and music, for it develops according to its own precepts. Attempting to release the latent forces within it, the essay is not opposed to logic but rather gives back to language what discursive logic has taken away. Music, the most immaterial of all arts, represents most closely the utopian ideal of this nonconceptual expression. In his account of the development of the concept of absolute music, Dahlhaus asserts the “topos of Unsayability" as the central mark of modem art, literature, and music.“1 Based upon modern skepticism and the distrust of discursive language, **music**—because of its nonconceptual nature—**takes on a privileged role in expressing the inexpressible**. Dahlhaus maintains that Adorno’s Aesthetic Theory might be the first aesthetic theory in which the term ‘art’ can be substituted by the word ‘music’.62 Andrew Bowie sees Adomo in the tradition of a counterdiscourse of modernity, that is, a counterdiscourse to Hegel in which the key players are Schelling, Holderlin, and. of course, Nietzsche.“ According to Bowie‘s argument, “music’s resistance to wholesale interpretation and conceptual determination" explain its philosophical significance to modern thought and to Adomo, and Adomo’s emphasis on music attempts to salvage “at least some aspects of subjectivity in a world increasingly dominated by mechanisms which threaten to abolish it.”

Without the essay, a critique of ideology would be unthinkable, because this form does not duplicate on a stylistic level what it denies in its argument. As a stylistic strategy for **a radicalized critique of rationality**, **metaphysics**, **and enlightenment**, the essay not only thematizes issues of representation but also embodies the very criticism it brings forth in its arguments, particularly in its openness of structure and negation of systems and identity. **In its affinity to music**, as well as figural and pictorial representation, **the essay represents moments of resistance and protest paralleling those of autonomous art**, while the process of writing essays parallels artistic composition in that the composer/writer/painter follows the logic of the material rather than imposing upon it external norms of conceptual design and order. The essay coordinates rather than subordinates and becomes readable as a dynamic forcefield of constellations. As a text, “The Essay as Form" itself practices what it preaches. Adomo explores his subject not by attempting to define it, but by circling around his topic in order to explore its different potentials. While he refers to the historical tradition of the essay, he resists establishing a consistent narrative on its origin and development. His essay on the essay is an unsystematic explication of this form's functions and potential, which insists upon illuminating the discontinuities of the topic in its style and structure. Simultaneously, this text serves as a defense of the essay against the demands of the conventions of disciplinary discourses. Behind “The Essay as Form” resides the probable intention to testify to the freedom of the spirit and to show the author‘s effort as a process of labor. For this reason, Adomo’s text seems at times convoluted and exhibits the same tendency toward overdetermination that Bubner notes in relation to Adomo’s understanding of the aesthetic experience. While at the beginning Adomo explains the essay’s diminished reputation in Germany as a result of the German rigidity that has little patience with experimental and freespirited explorations, at the end he makes similar assertions, with the difference that they are now turned into negative rather than positive affirmations of the essay’s potential. Ultimately, Adomo emphasizes the essay’s critical dimension and its oppositional force against the orthodoxy of philosophical thought. The affirmation of the “freedom of the spirit" culminates in the assertion that the inner law of the essay is “heresy."

## Case

Afrofuturism reifies whiteness and black inferiority

J. Griffith Rollefson, 2008, The “Robot Voodoo Power” Thesis: Afrofuturism and Anti-Anti-Essentialism from Sun Ra to Kool Keith, Black Music Research Journal Vol. 28, No. 1,

Since the term “Afrofuturism” first appeared, scholars have seized upon the idea as a way to critique the reified distance between racialized fictions of black magic and white science—often in satirical and even playful ways. Yet, the very premise of Afrofuturism relies on the normalized disparity between blackness and the cybernetic technological future—a binary that is reflected in the racially coded phrase “digital divide.” As Nelson explains: “Forecasts of a utopian (to some) race-free future and pronouncements of the dystopian digital divide are the predominant discourses of blackness and technology in the public sphere. . . . Blackness gets constructed as always oppositional to technologically driven chronicles of progress” (2002, 1). Thus, the danger with the Afrofuturist strategy is that it can quickly turn into a reification of black inferiority through simple contrast with supposed “white” technologies.

**Metaphor risks misreading and cannot be understood universally, preventing action**

**Booth 74** (Booth, Wayne C., professor emeritus of literature at the University of Chicago, “A Rhetoric Of Irony”, p. 40-41) FS

As we have seen (pp. 21-27), all non-literal language, every “abnormal” way of saying anything, invites us to reject a lower literal interpretation and climb to a better one. “He looks at life through rose-colored glasses”—we are faced here with a demand for a metaphorical reconstruction that is superior, in truth, in perceptiveness, in imaginative skill, to the literal reading which is trivial or even nonsensical. But note again that the rejected meaning is, in all metaphor and simile, so uninventing or irrelevant that there is really no contest. “Business is a rat-race.” “She is an elephant.” “My love is like a red, red rose.” The strictly literal meanings are so obviously unlikely that only metaphoric meaning has sufficient appeal to be considered seriously. Though a literal image of rat-races, elephants, or roses may remain part of our final reconstruction, insofar as they do, they in no sense cancel or subtract from non-literal views that the reader has come to. But in stable irony (whether employing metaphor or not) the superiority of the new meaning is an aggressive or competitive superiority—the rejected meaning is in some real sense a rival or threat. Someone *could* say it and mean it literally, yet it must be totally rejected—though of course it is still somehow kept in mind, as part of our awareness of the irony. “A Daniel come to judgment.” The satiric force when Shylock’s enemies in *The Merchant of Venice* turn his statement into irony comes precisely because he has earlier applied the same metaphor to Portia without irony. When irony succeeds, somehow the energy our minds put into recognizing this type of conflict and making our choices is transferred to one element or another in the ironic scene: either negatively against the victim, as in the standard (but often challenged) reading of Shylock, or affirmatively on behalf of the final reconstruction: having decided for myself that the ostensible judgment must be somehow combatted, I make the new position mine with all the force that is conferred by my sense of having judged independently. After all, I built this superior dwelling place “for myself.”

**We are not responsible for every evil perpetuated by individuals representing western culture – their argument breeds racism because it is the essence of cultural stereotyping**

**Berliner, 1999** (Michael, PhD and Former Executive Director of the Ayn Rand Institute, “The Christopher Columbus Controversy,” http://www.aynrand.org/site/PageServer?pagename=objectivism\_columbus)

Underlying the political collectivism of the anti-Columbus crowd is a racist view of human nature. They claim that one's identity is primarily ethnic: if one thinks his ancestors were good, he will supposedly feel good about himself; if he thinks his ancestors were bad, he will supposedly feel self-loathing. But it doesn't work; the achievements or failures of one's ancestors are monumentally irrelevant to one's actual worth as a person. Only the lack of a sense of self leads one to look to others to provide what passes for a sense of identity. Neither the deeds nor misdeeds of others are his own; he can take neither credit nor blame for what someone else chose to do. There are no racial achievements or racial failures, only individual achievements and individual failures. One cannot inherit moral worth or moral vice. "Self-esteem through others" is a self-contradiction. Thus the sham of "preserving one's heritage" as a rational life goal. Thus the cruel hoax of "multicultural education" as an antidote to racism: it will continue to create more racism. Individualism is the only alternative to the racism of political correctness. We must recognize that everyone is a sovereign entity, with the power of choice and independent judgment. That is the ultimate value of Western civilization, and it should be proudly proclaimed.

**“The West” is not a monolith that can be rejected as a whole. The left condemns itself political irrelevancy when they refuse to recognize differences between policies.**

**Wolin, 06** (The Seduction of Unreason: The Intellectual Romance with Fascism from Nietzsche to Postmodernism, Richard Wolin, Professor of History and Comparative Literature at the Graduate Center, City University).

With a self defeating Nietzschean glibness, postmodernism has burned its bridges to a traditional rhetoric of moral evaluation. Hence, Baudrillard and Zizek pointedly fad to mention that the West, in addition to being an epicenter of imperialism (conveniently, instances of genocide or conquest that originate outside the West always go unmentioned), is also the birthplace of a moral discourse that has given birth to international law, the Universal Declaration of Human Rights, and the 1948 Convention against Genocide. For postmodernist hipsters like Zizek and Baudrillard, however, such precepts remain woefully "foundationalist" and are, consequently, simply irrelevant. Amid the fog of postmodern relativism disseminated by Baudrillard, Zizek, and others, something essential is missing. Going back to the Thucydides' Melian Dialogue, the massacre of civilian innocents has been a touchstone of civilized moral judgment. It remains today the cornerstone of human rights law and just war theory. Yet for the cultural left, slavishly following the "genealogical" approach recommended by Nietzsche and Foucault, moral reasoning is merely another one of civilization's clever "normalizing ruses”- hence, an intellectual weakness to be avoided at all costs. Once again, postmodernism's right-wing intellectual pedigree- Nietzsche, Spengler, and Heidegger-has left it morally impotent and politically clueless. For years the left has demonstrated a predilection to romanticize the "other”- Ho Chi Minh, Che, Fidel, as well as countless other apostles of Third World revolution-in the hope that the Wretched of the Earth would provide a remedy for the West's intractable political impasse. At a conference I attended recently, a friend with impeccable left-wing credentials who until communism's recent collapse had been an ardent champion of the proletarian cause, jumped on the pan-Arab bandwagon, reciting the names of obscure Muslim intellectuals who, he claimed, offered a promising political alternative to the debilities of Western liberalism. Plus ca change . . . . The left can ignore the imperatives of morality and international law only at its own peril. By romanticizing the lifestyles and mores of non-Western peoples, it suspends critical judgment, destroys its own credibility, and guarantees its own political irrelevance.

Their predictions ignore progress – projecting the present onto the future is a failed strategy

Ridley, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer, 2010

(Matt, *The Rational Optimist*, pg. 354)

**It is a common trick to forecast the future on the assumption of no technological change**, **and find it dire**. This is not wrong. The future would indeed be dire if invention and discovery ceased

. As Paul Romer puts it: ‘Every generation has perceived the limits to growth that finite resources and undesirable side effects would pose if no new recipes or ideas were discovered. **And every generation has underestimated the potential for finding new recipes and ideas**. We consistently fail to grasp how many ideas remain to be discovered.’ By far the most dangerous, and indeed unsustainable thing the human race could do to itself would be to turn off the innovation tap. Not inventing, and not adopting new ideas, can itself be both dangerous and immoral.

Western historical approaches might not be perfect but that doesn’t mean we should just throw it out and start over

**Boghossian, 1996** (Paul A., professor of philosophy and chair of the department at the New York University, “What the Sokal Hoax ought to teach us”, A House Built on Sand: Exposing Postmodernist Myths about Science, edited by Noretta Koertge,)

How does it fare when considered as a claim about evidence or justification? So construed, the suggestion comes to the claim that the Zuni story and the archaeological theory are equally justified, given the available evidence. Now, in contrast with the case of truth, it is not incoherent for a claim and its negation to be equally justified, for instance, in cases in which there is very little evidence for either side. But *prima facie*, anyway, this isn't the sort of case that's at issue, for according to the available evidence, the archaeological theory is far better confirmed than the Zuni myth. To get the desired relativistic result, a postmodernist would have to claim that the two views are equally justified, given their respective rules of evidence, and add that there is no objective fact of the matter which set of rules is to be preferred. Given this relativization of justification to the rules of evidence characteristic of a given perspective, the archaeological theory would be justified relative to the rules of evidence of Western science, and the Zuni story would be justified relative to the rules of evidence employed by the relevant tradition of mythmaking. Furthermore, since there are no perspective-independent rules of evidence that could adjudicate between these two sets of rules, both claims would be equally justified, and there could be no choosing between them. Once again, however, there is a problem not merely with plausibility but with selfrefutation. For suppose we grant that every rule of evidence is as good as any other. Then any claim could be made to count as justified simply by formulating an appropriate rule of evidence relative to which it is justified. Indeed, it would follow that we could justify the claim that not every rule of evidence is as good as any other, thereby forcing the postmodernist to concede that his views about truth and justification are just as justified as his opponent's. Presumably, however, the postmodernist needs to hold that his views are better than his opponent's; otherwise, what's to recommend them? By contrast, if some rules of evidence can be said to be better than others, then there must be perspective-independent facts about what makes them better and a thoroughgoing relativism about justification is false. It is sometimes suggested that the intended sense in which the Zuni myth is "just as valid" has nothing to do with truth or justification but, rather, with the different purposes that the myth subserves, in contrast with those of science. According to this line of thought, science aims to give a descriptively accurate account of reality, whereas the Zuni myth belongs to the realm of religious practice and the constitution of cultural identity. It is to be regarded as having symbolic, emotional, and ritual purposes other than the mere description of reality. And as such, it may serve those purposes very well--better, perhaps, than the archaeologist's account. The trouble with this as a reading of "just as valid" is not so much that it's false but that it's irrelevant to the issue at hand: even if it were granted, it couldn't help advance the cause of postmodernism. For if the Zuni myth isn't taken to compete with the archaeological theory as a descriptively accurate account of prehistory, its existence has no prospect of casting any doubt on the objectivity of the account delivered by science. If I say that the earth is flat and you make no assertion at all but instead tell me an interesting story, it has no potential for raising deep issues about the objectivity of what either of us said or did.

Pragmatism is good - ideas without mechanisms are meaningless self-delusion

**Jones and Smith 11** 2011(David Martin, Senior Lecturer, School of Political Science and International Studies, University of Queensland, Brisbane, Australia, M.L.R., Department of War Studies, King's College, University of London, London, United Kingdom, “Terrorology and Methodology: A Reply to Dixit and Stump,” Studies in Conflict & Terrorism, Volume 34, issue 6)

Dixit and Stump further contend that effective critical terrorism research should be advanced by redefining critical studies in a way that abandons the Frankfurt School's insistence on emancipatory and transformative praxis. Thus, the authors maintain, to be properly “critical” merely requires “drawing attention to how meanings are formulated, identities produced and actions legitimated”12 in ways that are not necessarily normative or emancipatory. We sympathize with Dixit and Stump's aspiration to modify the critical preoccupation with the abstract transformation of the prevailing national and international order, but find their prescriptions either banal or self-defeating. In their desire to disassociate critical theory from its Frankfurt School roots, Dixit and Stump want to move critical terrorism studies in directions that critical theorists would necessarily resist. This is a reasonable ambition but would only further confuse the notion of critical theory. Adherence to the Frankfurt School and its Habermasian verities are in fact constitutive of this critical identity. In critical theory circles, criticism and the Frankfurt school are synonymous. Despite their heroic attempt to divorce criticism from critical theory, Dixit and Stump's claim that the “critical can mean a range of non-traditional ways of doing research,”13 is too vague. The authors cite Karin Fierke to the effect that to be “critical” means looking at issues in fresh ways, questioning existing assumptions, and opening up new spaces of inquiry. This seems entirely unremarkable. If all they mean is that to be critical is to be skeptical, well, that is surely the task of any properly conceived scholarly exercise. Yet, skepticism is precisely what critical theorists disavow. To be critical in the Frankfurt school sense is to be engage, that is to say, committed to the project of emancipating the silenced “other” and transforming the state based international order along normative, postnational, communicatively rational, lines. If the answer to any inquiry is already determined then skepticism is negated. The critical terror approach is not skeptical, and it is not academic. It is actually a debased form of faith. In this regard, Dixit and Stump considered the references in our original review to critical theory's disciples, prophets, and commandments a “facile” grab.14 They were not intended to be. Our comments made a serious point. The critical approach meets the criteria for inclusion in what the political philosopher, Michael Oakeshott, termed the “politics of faith.” It is a closed system of thought, the ruling assumptions of which are unfalsifiable. It is neither pluralist nor, as our experience with its high priesthood demonstrates, open-handed in debate.15 Critical terrorism study is, therefore, not so much a system of academic thought but what Eric Voegelin described as a “new political religion.”16 In our view, the practice of faith should be confined to churches, mosques, and other places of worship. That critical terrorism studies, and its critical security studies variants, may be found in international relations departments on Western campuses, attracting large numbers of students to its creed, does not mean that it constitutes a rigorous, self-critical, method of investigation. Its transcendental belief in transformation and emancipation assumes a world that ought to be. It does not, as realists do, accept the world as it is. It was precisely this form of oughtism that Machiavelli, the founder of modern political science, dismissed in The Prince. That such a transcendental idealism pervades critical theory is evident, as we demonstrated, from the statements of critical terrology's leading protagonists. Thus, Ken Booth asserts that the imperative of international relations is not merely to interpret the world but to change it.17 Meanwhile, Anthony Burke holds that international issues should be pursued with a normative bias toward nonviolence and universal human emancipation. The process requires the “political taming of unbounded capitalism,” leading to a transcendental “telos of mutual understanding” where we recognize the “human interconnection and mutual vulnerability to nature, the cosmos and each other.”18 Such an approach conforms not to scientific inquiry but to what Voegelin saw as Gnosticism, namely, a “purported direct, immediate apprehension or vision of truth without the need for critical reflection.”19 Given this transcendentalist predilection, we submit that Dixit and Stump overestimate the capacity of existing critical theory to reform itself into a methodologically coherent system of thought. Additionally, we would further question what exactly Dixit and Stump's call for greater methodological plurality entails and why it should necessarily characterize a particularly “critical” study of terrorism? Advancing their version of pluralism, Dixit and Stump claim that our original review contended that “a questioning stance toward terrorism automatically implies hatred of 'Western politicians and the media.”20 We did not, in fact, say this. In academia, a questioning stance is always welcome. What we argued, however, was that critical theory's commitment to emancipation and transformation limits what can be questioned and thus forecloses intellectual diversity.21 It is mind-closing, not mind-opening. That said, we would agree with Dixit and Stump's contention that critical theory's “focus on emancipation as a goal is problematic because it ignores whose [original italics] emancipation 'we' should be concerned about.”22 This is a limitation that we have in fact previously identified, observing that self-proclaimed critical theorists often appear confused about who precisely they should be emancipating. In particular, critical theory seems caught between its empathy for the non-Western “other” and the universalist, yet essentially postmodern Western, emancipationist agenda that it also advances.23 To avoid the paradox at its core, critical theorists revert to faith-based affirmation and the suppression of questioning voices. As we have argued elsewhere, critical theorists find it more convenient to deplore the informal practices of exclusion they find at work in Western liberal-democracies than to criticize the formal systems of repression, torture, and enslavement practiced in the non-Western world. Consequently, the critical position frequently affords solace to non-liberal or authoritarian regimes and practices of thought (as we demonstrated with reference to its empathy with the radical Islamist agenda).24 Ironically, analysts pursue this soi disant critical agenda from within the same Western campuses that permit their ideas and illiberal practices to flourish.

Destructive genealogy pre-configures the terms of debate and destroys radical potential – only incorporating the baggage of the plan allows resistance

**Lewandowski**, political theory – Charles University, **‘94**

(Joseph, Philosophy and Social Criticism 20:109, Review Essay)

While the attempt to make literary theory critical in this innovative union of Heidegger and Foucault is laudable, Spanos’s ’retrieving’ of Heidegger shares many of the problems that faced an earlier generation of critical theorists interested in Heidegger (here I am thinking of Marcuse), and many of the problems that face contemporary philosophical hermeneutics (here I am thinking mostly of Gadamer and Vattimo). Remember that Marcuse’s dissatisfaction with Heidegger grew, in fact, not simply out of Heidegger’s political engagements but more so out of his failure to link his fundamental ontology to any historically concretized praxis (a problem Spanos is aware of, as I suggested earlier, but never resolves via genealogy - a point I shall return to shortly). Heidegger never has much to say about agents and their capacity for historically realizable emancipation: for Heidegger, it is always a freedom that possesses man, a historical destiny that awaits or calls us, and not the other way around. Thomas McCarthy raises this problematic in his essay on ’Heidegger and Critical Theory’: Heidegger, Marcuse wrote, ’remained content to talk of the nation’s link with destiny, of the &dquo;heritage&dquo; that each individual has to take over, and of the community of the &dquo;generation&dquo;, while other dimensions of facticity were treated under such categories as &dquo;they&dquo; and &dquo;idle talk&dquo; and relegated in this way to inauthentic existence. [He] did not go on to ask about the nature of this heritage, about the people’s mode of being, about the real processes and forces that are history.’ (p. 96) The point to be made here is that Heidegger’s politics are not the only (or necessarily the largest) obstacle to coupling him with critical theory. Hence much of Spanos’s energetic defense of Heidegger against his ’humanist detractors’ (particularly in his defiant concluding chapter, ’Heidegger, Nazism, and the &dquo;Repressive Hypothesis&dquo;: The American Appropriation of the Question’) is **misdirected**. For as McCarthy rightly points out, ’the basic issues separating critical theory from Heideggerean ontology were not raised post hoc in reaction to Heidegger’s political misdeeds but were there from the start. Marcuse formulated them in all clarity during his time in Freiburg, when he was still inspired by the idea of a materialist analytic of Dasein’ (p. 96, emphasis added). In other words, Heidegger succumbs quite readily to an immanent critique. Heidegger’s aporias are not simply the result of his politics but rather stem from the internal limits of his questioning of the ’being that lets beings be’, truth as disclosure, and destruction of the metaphysical tradition, all of which divorce reflection from social practice and thus lack critical perspective. Spanos, however, thinks Foucault can provide an alternative materialist grounding for an emancipatory critical theory that would obviate the objections of someone such as Marcuse. But the turn to Foucault is no less problematic than the original turn to Heidegger. **Genealogy is not critical in any real way**. Nor can it tame or augment what Spanos calls Heidegger’s ’overdetermination of the ontological site’. Foucault’s analysis of power, despite its originality, is an ontology of power and not, as Spanos thinks, a ’concrete diagnosis’ (p.138) of power mechanisms.3 Thus it dramatizes, on a different level, the same shortcomings of Heidegger’s fundamental ontology. The ’affiliative relationship’ (p. 138) that Spanos tries to develop between Heidegger and Foucault in order to avoid the problem Marcuse faced simply cannot work. Where Heidegger ontologizes Being, Foucault ontologizes power. The latter sees power as a strategic and intentional but subjectless mechanism that ’endows itself’ and punches out ’docile bodies’, whereas the former sees Being as that neutered term and no-thing that calls us. Foucault (like Spanos) never works out **how** genealogy is emancipatory, or how emancipation could be realized collectively by actual agents in the world. The ’undefined work of freedom’ the later Foucault speaks of in ’What Is Enlightenment?’ remained precisely that in his work.’ The genealogy of power is as much a hypostatization as is fundamental ontology: such hypostatizations tend to institute the impossibility of practical resistance or freedom. In short, I don’t think the Heideggerian ’dialogue’ with Foucault sufficiently tames or complements Heidegger, nor does it make his discourse (or Foucault’s, for that matter) any more emancipatory or oppositional. Indeed, Foucault’s reified theory of power seems to undermine the very notion of ’Opposition’, since there is no subject (but rather a ’docile’ body) to do the resisting (or, in his later work, a privatized self to be self-made within a regime of truth), nor an object to be resisted. As Said rightly points out in The World, the Text, and the Critic, ’Foucault more or less eliminates the central dialectic of opposed forces that still underlies modern society’ (p. 221, emphasis added). Foucault’s theory of power is shot through with **false empirical analyses**, yet Spanos seems to accept them as valid diagnoses. Spanos fails to see, to paraphrase Said’s criticisms of Foucault’s theory of power, that power is neither a spider’s web without the spider, nor a smoothly functioning diagram (p. 221). There persists a normative-hermeneutic issue as well. Spanos criticizes (quite rightly) the New Criticism for suspending the temporality of the literary text (p. 43) and making the interpreter (the disinterested ’human’ judge) the sole determiner of its meaning. Spanos rightly senses the need for a more ’hermeneutically informed’ account of literary theory. Literary texts are situated in particular sociocultural and historical matrices (what Gadamer calls ’traditions’), as are those who encounter them; thus for any understanding to be reached there must be, to borrow Gadamer’s apt phrase, a ’fusion of horizons’ rather than a superimposition of the interpreter’s horizon upon the object interpreted. Yet rather than draw on such vital hermeneutical insights, which for Spanos remain within a particular mode of metaphysical humanistic inquiry, Spanos returns to Heidegger to proffer a ’hermeneutics of disclosure’ (p. 22 ff. ), where disclosure is in contradistinction to veritas: the Greek aletheia Heidegger retrieves enables the de-structuring process of inquiry (p. 141 ). Spanos thinks that this kind of hermeneutics as a ’disclosive process of inquiry’ enables and can support a postmetaphysical critical theory and resist the Foucauldian ’regime of veritas’: Heidegger’s ’destruction of the [metaphysical] tradition points to a hermeneutics of being that is capable of surpassing metaphysics ( Uberwindung), to a postmodern hermeneutics of dis-covery, in which a disclosed temporality is given ontological priority over Being’ (p. 23), but remains ’a temporality grounded in nothing’ (p. 52). In Spanos’s view, this kind of disclosive ’postmodern hermeneutics’ radicalizes Gadamerian hermeneutics: a destructive, disclosive encounter with a text ’enables the interpreter to render the temporal &dquo;structure&dquo; ... explicit: to hear the logos as legein.... It is this phenomenological/ destructive imperative, in other words, that brings meaning, not as determinate truth, but as being-saying, out of concealment or oblivion into the opening/closing of finitude’ (pp. 47-8). But radicalized or not, Spanos’s trading of any possibility of ’determinate truth’ for Heideggerian disclosure as eventing of truth/untruth robs his critical theory of the necessary yardstick needed to measure ’emancipation’. Heidegger’s disclosure is a **cryptonormative truth**; it is an event before which any critical judgment necessarily fails. Disclosure is not a process of inquiry, but rather a revealing/concealing that befalls or overtakes us. In his eagerness to draw out the enabling features and ’post’-humanist dimension of Heidegger’s disclosure, Spanos fails to see the inevitable and internal limits to truth as disclosure Gadamer encounters similar problems, despite his keen insights, when he holds on to a Heideggerian disclosure that too often undermines the power of critical reflection. And the postmodern Italian philosopher Gianni Vattimo encounters a related problem when he attempts to take leave of modernity and proclaim a liberating postmodernity via Heidegger’s disclosure.6 But while a purely aesthetic theory interested in ’textuality’ can quite justifiably be grounded in truth as disclosure (as American deconstruction or Vattimo’s il pensiero debole is), a truly critical theory interested in emancipation simply cannot: some types of ’emancipation’ are false and need to be rejected. Texts may very well ’disclose’ worlds in the same way that, say, the Greek temple does for Heidegger. But a genuinely critical theory needs to be able to say what worlds are better or worse for actual agents in actual worlds - a need, I might add, that Spanos is constantly aware of and typifies in his denunciation of American imperialism in Vietnam (and elsewhere) in Heidegger and Criticism.

# 2NR

## at: giroux

Giroux’s account of oppression is totalizing and the alternative fails

Benjamin **Franks 7**, Lecturer in Social and Political Philosophy at the University of Glasgow, “Who Are You to tell me to Question Authority?”, Variant issue 29, <http://www.variant.org.uk/29texts/Franks29.html>

Potentially stronger criticisms of Giroux’s text lie precisely in his underlying hypothesis concerning the totalising power of neo-conservatism. Giroux shares with the members of the Frankfurt School, who he approvingly cites, a pessimistic and almost wholly determined account of future social developments, in which the prognosis for alternatives to dominant powers looks bleak. Giroux, like Adorno and Marcuse, fears that we are approaching a one-dimensional future composed of intellectually stunted individuals, who are manipulated by the cultural industries, endorse militarised social hierarchies and engage in relationships conceived of only in terms of market-values. This grim dystopia is subject to continual monitoring by an evermore technologically-equipped police and legitimised by an increasingly subservient, partisan and trivial media. However, whilst Giroux’s account of growing authoritarianism is convincingly expressed, it is potentially disempowering, as it would suggest little space for opposition. It is not simply wishful thinking to suggest that the existing power structures are neither as complete nor as impervious as Giroux’s account would suggest. Whilst the old media of radio, film and television are increasingly dominated by a few giant corporations (p.46), new technologies have opened access to dissident voices and created new forms of communication and organisation. Whilst the military are extending their reach into greater areas of social and political life, and intervening in greater force throughout the globe, resistance to military discipline is also arising, with fewer willing to join the army in both the US and UK.7 Bush’s long term military objectives look increasingly unfeasible as Peter Schoomaker, the former US Chief of Staff, told Congress on December 15, 2006 that even the existing deployment policy is looking increasingly ‘untenable’.8 The ‘overstretch’ of military resources is matched by an economy incapable of fulfilling its primary neo-conservative goals of low taxation, sound national finances and extensive military interventions. Whilst this is not to suggest that the US is on the point of financial implosion, the transition to a fully proto-fascist state is unlikely to be seamless or certain. Giroux’s preferred form of resistance is radical education. The photograp

hs from Abu Ghraib were iconic not just in their encapsulation of proto-fascism, but in their public pedagogic role. Their prominence highlighted the many different sites of interpretation, as Giroux rightly stresses, there is no single way to interpret a photograph, however potent the depiction. The ability to interpret an image requires an ongoing process by a critical citizenry capable of identifying the methods by which a picture’s meanings are constructed (p. 135). Giroux’s critical pedagogy overtly borrows from Adorno’s essay ‘Education After Auschwitz’, and proposes “modes of education that produce critical, engaging and free minds” (p. 141). But herein lies one of the flaws with the text: Giroux never spells out what sorts of existing institutions and social practices are practical models of this critical pedagogy. Thus, he does not indicate what methods he finds appropriate in resisting the proto-fascist onslaught nor how merely interpreting images critically would fundamentally contest hierarchical power-relationships. Questions arise as to the adequacy of his response to the totalising threat he identifies in the main section of the book. Clearly existing academic institutions in the US are barely adequate given the campaigns against dissident academics led by David Horowitz (p.143). Giroux recounts in the final chapter, an interview conducted by Sina Rahmani, his own flight from the prestigious Penn State University to McMaster University in Canada because of managerial harassment following his public criticisms of Penn’s involvement in military research (p. 186). But whilst Giroux recognises that education is far wider than what takes place in institutions of learning there is no account of what practical forms these take. Nor does Giroux give an account of why a critical pedagogy would take priority over informed aesthetic or ethical practices. Such a concentration on education would appear to prioritise those who already have (by virtue of luck or social circumstance) an already existing expertise in critical thinking, risking an oppressive power-relationship in which the expert drills the student into rigorous assessment. This lapse into the role of the strident instructor demanding the correct form of radical response, occasionally appears in Giroux’s text: “within the boundaries of critical education, students have to learn the skills and knowledge to narrate their own stories [and] resist the fragmentation and seductions of market ideologies” (p. 155). Woe betide the student who prefers to narrate the story of the person sitting next to them, or fails to measure up to the ‘educators’ standard of critical evaluation.

## at: delgado

Legal engagement is good—any alternative fails to produce substantive change

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(Richard, 22 Harv. C.R.-C.L. L. Rev. 301)

The CLS critique of rights and rules is the most problematic aspect of the CLS program, and provides few answers for minority scholars and lawyers.23 We know, from frequent and sad experience, that the mere announcement of a legal right means little. We live in the gap between law on the books and law in action. We have no difficulty imagining a better world; for us, eliminating racism would be a good start. Even if rights and rights-talk paralyze us and induce a false sense of security, as CLS scholars maintain, might they not have a comparable effect on public officials, **such as the police?** Rights do, at times, give pause to those who would otherwise oppress us; without the law's sanction, these individuals would be more likely to express racist sentiments on the job.24 It is condescending and misguided to assume that the enervating effect of rights talk is experienced by the victims and not the perpetrators of racial mistreatment. Second, CLS scholars are often hazy about what would provide minorities comparable protection if rights no longer existed.25 The CLS positive program, or Utopia, discussed below, 26, is both far from adequate and far off in time. Third, Crits argue that rights separate and alienate the individual from the rest of the human community.27 This may be so for the hard-working Crits who spend much of their lives in their studies and law offices. 28 For minorities, however, rights serve as a rallying point and bring us closer together.29 On the other hand, any distance rights place between us and others may be beneficial; there is at least safety in distance. 30 One explanation for the CLS position on rights may be that the average Crit, a white male teaching at a major law school, has little use for rights.31 Those with whom he comes in contact in his daily life-landlords, employers, public authorities-generally treat him with respect and deference. Rarely is he the victim of coercion, revilement, or contempt. 32 In the mind of the average Crit, rights offer relatively little security, while they promote a shrunken, atrophied, and unsatisfying social existence. 33 Rights transform those governed by them into lone, deformed stick figures vulnerable to pressures emanating from large corporations or faceless bureaucracies. 34 Yet, when Crits are treated insensitively or unfairly, or are coerced into giving up something of value-such as an academic appointment in a tenure battle tinged by anti-Crit bias-they have been as quick as anyone to resort to the language of rights. 35 Their behavior in such situations exemplifies the universal tendency of beleaguered persons and groups to revert to rights-talk. For minorities, however, that rights minimize many forms of coercion is of enormous importance. At the same time, the psychic rewards that Crits believe will result from a rightless interracial "community" are far from our experience. Even if such rewards were achievable, they would necessarily rank lower than simple security on our scale of need. Of course, a utopian community of the sort Crits advocate might provide minorities with both security and psychic satisfaction. As will be shown later, however, that hope is probably ,vain.3 6 In short, the two groups see rights differently. White CLS members see rights as oppressive, alienating and mystifying. For minorities, they are invigorating cloaks of safety that unite us in a common bond. Instead of coming to grips with the different function of rights for the two groups, Crits insist that minorities adopt their viewpoint, labeling disagreement on our part false consciousness 37 or a lack of political sophistication.