### Off

Restrictions are prohibitions on action --- the aff is not

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include

AND

some supervision conditions, but he did not agree to restrict his license.

Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority

AND

were not authorized to act except upon the fulfillment of the specified conditions.

Limits

a) Ground - They make the topic bi-directional. Affs can claim, like they do, that existing presidential actions on an issue are topical - or worse, refuse to take a stance on such authority.

b.) Precision - Our evidence clearly defines restrictions in the context of authority - you should reject all other definitions because they turn debate into a scrabble board. Precision is key to generate topic education and research.

### Off

On” means directly targeted at and focused on the President's War Power's Authority. A topical aff must reduce the President's War Power Authority in INDEFINITE DETENTION.

Oxford Dictionary online, 12 [The World’s most trusted Dictionary, <http://oxforddictionaries.com/definition/american_english/on>]

5. having (the thing mentioned) as a target, aim, or focus: *five* air raids on the city*,* thousands marching on Washington ,*her* eyes were fixed on his dark profile

Violation - the plan text rules material witness apriori is unconstitutional, this is distinct from ruling that the president's war powers authority to conduct detetion based on material witness is uncononstitutional.

Voter for ground because it lets the aff claim broad sweeping claims about the scope of their policy and claim obscene advantags.

### Off

Our interpretation is the affirmative must specify in the plan text in the 1AC on what grounds the SCOTUS renders their ruling.

Justices always make their legal opinions known- it’s important for legal precedents so constitutional reasoning is key

**Pekarsky 13** [Michelle Pekarsky](http://fox4kc.com/author/mpekarsky/) [News anchor for Fox 4 news]¶ Supreme Court justices carefully craft opinion on gay marriage¶ June 25, 2013¶ <http://fox4kc.com/2013/06/25/supreme-court-justices-carefully-craft-opinions-on-gay-marriage-voting-rights/>

Inside the marble walls at the Supreme Court, the last days of June are

AND

most of the massive health care reform law championed by President Barack Obama.

Our interp is best for debate:

Neg ground- we should be able to read Disads to and CP to rule on different legal grounds. There are precedents set by legal grounds, that’s why the Court writes them.

Education- Aff sets a precedent where affirmatives engage in lazy plan writing and legal research. Means we don’t learn about the workings of the Court. This is unique education on Legal topics

Voter for comp equity

### Off

The affirmative represents a strategy of lip service restraint re-affirms executive power granting legitimacy to sovereign manipulation of law

 **Posner & Vermeule 10** Eric A. Posner [Kirkland & Ellis Distinguished Service Professor of Law] AND Adrian Vermeule [Jr. Professor of Law at Harvard Law School] “The Executive Unbound: After the Madisonian Republic”, Oxford: Oxford University Press, USA, 2010 [Questia] pp 3-5

Some commentators argue that the federal courts have taken over Congress’s role as aninstitutional check. It is true that the Supreme Court has shown little compunction about striking down statutes (although usually state statutes), and that it rejected some of the legal theories that the Bush administration used to justify its counterterrorism policies. However, the Court remains a marginal player. The Court ducked any legal rulings on counter terror policies until the 2004 Hamdi decision, and even after the Boumediene decision in 2008, no detainee has been released by final judicial order, from Guantánamo or elsewhere, except incases where the government chose not to appeal the order of a district judge. The vast majorityof detainees have received merely another round of legal process. Some speculate that judicialthreats to release detainees have caused the administration to release them preemptively. Yetthe judges would incur large political costs for actual orders to release suspected terrorists, andthe government knows this, so it is unclear that the government sees the judicial threats ascredible or takes them very seriously. The government, of course, has many administrativeand political reasons to release detainees, quite apart from anything the courts do. So the executive submits to judicial orders in part because the courts are careful not to give orders that the executive will resist.¶ In general, judicial opposition to the Bush administration’s counterterrorism policies took the form of incremental rulings handed down at a glacial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, targeted assassinations, the immigration sweeps, even coercive interrogation. The (limited)modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan. The 9/11 attack provided a reminder of just how extensive the president’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant statutory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executive’s constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to imagine what would have happened if Congress had refused to pass the Authorization for Use of Military Force and the Supreme Court had ordered the¶ executive to release detainees in a contested case. We think that the executive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would never have refused its imprimatur and the Supreme Court would never have stood in the executive’s way. The major check on the executive’s power to declare an emergency and to use emergency powers is—political. The financial crisis of 2008–2009 also revealed the extent of executive power. Acting together, the Fed, the Treasury, and other executive agencies spent hundreds of billions of dollars, virtually nationalizing parts of the financial system. Congress put up a fuss, but it could not make policy and indeed hardly even influenced policy. Congress initially refused to supply a blank check, then in world-record time changed its mind and gave the blank check, then watched helplessly as the administration adopted policies different from those for which it said the legislation would be needed. Courts played no role in the crisis except to ratify executive actions in tension with the law.2'

The justifications for restrictions presuppose that the suspension of legal rights is the exception and not, for many people, the rule. This logic perpetuates the logic of legal black holes that subject us to the state of exception

**Fabbri 9** Lorenzo Fabbri [PhD in Romance Studies, professor of Italian @ University of Minnesota –areas of research Biopolitics, Continental Philosphy, Humanities, Italian Studies, Critical Theory, Film Studies, and Post-Colonial Studies] ¶ “Chronotopologies of the Exception: Agamben and Derrida before the Camps”¶ Diacritics, Volume 39, Number 3, Fall 2009, pp. 77-95 (Article) Published by The Johns Hopkins University Press

I begin with Bruce Ackerman who in “The Emergency Constitution” tried to demarcate ¶ an unmistakable threshold between the normal functioning of a constitutional democracy and its exceptional suspension. After having separated these two realms, Ackerman ¶ concerns himself with determining the actor who should have the authority to switch ¶ from normality to exceptionality (and vice versa). From this perspective he argues for ¶ the necessity of a statutory reform that would unmistakably preserve the legislature authority over the exception threshold, and therefore prevent the executive from turning ¶ a transitional emergency regime into a permanent police state. However imperative or ¶ praiseworthy such an attempt may be, I argue that Ackerman’s legalist framework fails ¶ to notice that the exception is not something that—sometimes and somewhere, in a local ¶ and transitory context—needs to be enforced in order to deal with national emergencies. ¶ Following Adrian Vermeule, my first critical intervention consists in showing that any ¶ defense of classic legalism overlooks the inevitable existence, within a system of rights, ¶ of legal black and grey holes that always allow for negotiations with the rule of law. ¶ Against Vermeule, I claim that these loopholes are not created by the judicial discretion ¶ inscribed in administrative law, but provoked by the naked formality of laws, i.e., by the ¶ very form of law. Inspired by Jacques Derrida’s description of the textual structure of our ¶ relation to law and Agamben’s identifying the state of exception as the paradigm of government, I argue that spectacular exceptions granted to the executive when emergencies ¶ transpire should not distract us from the micro-exceptions that are produced every time ¶ the meaning of a certain law is decided upon. In other words, the executive’s reactions ¶ to national crises should not prevent us from acknowledging that, for certain segments ¶ of the population, freedom is normally, and strategically, negated. After highlighting the ¶ structural affinities between Derrida and Agamben’s topologies of the exception, I will ¶ show why, according to Agamben, deconstruction’s eternal and tactical negotiation with a ¶ law recognized to always be in force without any fixed meaning is insufficient. In order to ¶ improve our position in the struggle against an emergency that has always been the rule, ¶ the task before us is the creation of truly extra-juridical spaces that might function as real ¶ exceptions to sovereign power.

The 1ac concerns itself with appearance and the spectacle of the law - this legitimizes state violence.

Giorgio Agamben 2000 [Phd., [Baruch Spinoza](http://www.egs.edu/library/benedict-baruch-spinoza/biography/) Chair at European Graduate School EGS, is a professor of aesthetics at the University of Verona, Italy and teaches philosophy at the Collège International de Philosophie in Paris and at the University of Macerata in Italy] “Means Without End: Notes on Politics”, p. 93-95)

Because human beings neither are nor have to be any essence, any nature, or any specific destiny, their condition is the most empty and the most insub­stantial of all: it is the truth. What remains hidden from them is not something behind appearance, but rather appearing itself, that is, their being nothing other than a face. The task of politics is to return appearance itself to appearance, to cause appearance itself to appear. The face, truth, and exposition are today the objects of a global civil war, whose battlefield is social life in its en­tirety, whose storm troopers are the media, whose victims are all the peoples of the Earth. Politicians, the media establishment, and the advertising industry have under­stood the insubstantial character of the face and of the community it opens up, and thus they transform it into a miserable secret that they must make sure to control at all costs. State power today is no longer founded on the monopoly of the legitimate use of violence — a mo­nopoly that states share increasingly willingly with other nonsovereign organizations such as the United Nations and terrorist organizations; rather, it is founded above all on the control of appearance (of doxa). The fact that politics constitutes itself as an autonomous sphere goes hand in hand with the separation of the face in the world of spectacle — a world in which human communication is being separated from itself. Exposition thus transforms itself into a value that is accumulated in images and in the media, while a new class of bureaucrats jealously watches over its management.

This presentation of legitimacy continues crumbling the distinction between democracy and totalitarianism and reinforces death-centered thanatopolitics causeing genocide on the global scale.

**Hall 7** Lindsay Anne Hall [MA Political Science] “Death, Power, and the Body: A Bio-political Analysis of Death and Dying” May 7, 2007 (Research paper presented to faculty of the Virginia Polytechnic Institute and State University)¶ <http://scholar.lib.vt.edu/theses/available/etd-05152007-134833/unrestricted/etd.pdf>

Agamben, on the other hand, addresses the intertwinement of medicine, death, ¶ and power through his analysis of the modern individualís exposure to death. According ¶ to Agamben, Western culture has become “thanatopolitical,” which means that it is ¶ dominated by a politics of death that leaves us more and more exposed to both death and ¶ operations of power. For Agamben, death has become indistinct. It is both meaningful ¶ and meaningless, both individual and anonymous, both visible and invisible. Moreover, ¶ because modern society increasingly exposes individuals to death, liberal democracy ¶ becomes increasingly indistinguishable from totalitarian regimes, an issue I will explore ¶ in more detail in Chapter Three. While the issues that I am addressingólife sustaining ¶ technologiesóare merely one symptom of the greater problem that Agamben is himself ¶ concerned with, I hope that shedding more light on this particular space of power can ¶ allow us to think about and eventually challenge the greater politics of death operating in ¶ modern society.¶ In this study I will focus specifically on reconsidering the relations of power ¶ surrounding the decision to stop preserving life in the particular space of the hospital ¶ room. According to Foucaultís view, terminating life is nearly unthinkable in a biopolitical society. Thus, as Benjamin Noys elaborates, we ìtry so hard to preserve life, ¶ even at the cost of terrible suffering, because death is the limit to [bio-political] powerî ¶ (2005, 54). For Foucault, death has become ìshameful,î it is paramount to giving up, to ¶ letting go, or to admitting defeat (all things given a negative connotation in Western ¶ society) (2003c, 247). In this study I would like to reconsider these claims through ¶ Giorgio Agambenís argument that death has become more political as the boundary ¶ between life and death has become blurred. Such a state of being, he claims, exposes the ¶ body to death, and yetóas I am primarily concerned withóìsaturatesî the body with ¶ power (Agamben 1995, 164). ¶ As suggested by this synopsis, I am using Foucault as the starting point for my ¶ study. Though I ultimately bring in Agamben who question aspects of his analysis of ¶ power, I begin my first chapter with an in depth account of the ways in which Foucault ¶ believed power to be exercised upon the body. In this chapter I begin to hammer out the ¶ theoretical framework that I will then both use and challenge in order to analyze the ¶ space of the hospital room as a space of power. In The Birth of the ClinicóFoucaultís ¶ only sustained analysis of the medical disciplineóhe claimed that the body was suddenly ¶ made ìexhaustively legibleî with the birth of modern medicine. More precisely, he ¶ claims that it was ìfrom the integration of death into medicineÖthat Western man could ¶ [at last] constitute himself in his own eyes as an object of science,î grasping himself ¶ within his own language, and giving himself his own discursive existence (Foucault ¶ 1973, 197). In his later writings on power, however, Foucault gives this constitutive ¶ capacity of individuals to sexuality, not death, and as I have previously suggested, ¶ Foucault begins to look at death as a limit to power itself. Throughout this study I have ¶ attempted to reconcile this seeming contradiction in Foucaultís work through the work of ¶ Giorgio Agamben. ¶ My second chapter is an examination of what Agamben terms the ìzone of ¶ indistinctionî between life and death. For Agamben, the line between life and death has ¶ become increasingly blurred by a whole series of ìwaveringsî around both the time of¶ death and the question of who decides on this time. As Agamben claims, this decision is ¶ increasingly taken up by the medical profession, thus in the conclusion of this chapter I ¶ return to Foucaultís only sustained engagement with medical power, The Birth of the ¶ Clinic. In this section I argue that Agambenís analysis of the intertwinement between the ¶ medical discipline and power might benefit from some of the historical insights provided ¶ in Foucaultís analysis. While Agamben centers his analysis on post-World War II ¶ society, Foucaultís work demonstrates that the entanglement of medicine and sovereign ¶ power have a far longer history than perhaps Agamben realizes or is willing to engage ¶ with. ¶ In the third and final chapter of this study I examine how death is politicized. As ¶ Agamben argues, death is not a natural or biological moment but a political decision. In ¶ order to tackle the nature of this decision I look at the work of Peter Singer who ¶ compares two seemingly contradictory ethics, the ethics of the sanctity of life and the ¶ quality of life ethic. An Agambenean analysis of these ethics however, suggest some ¶ problems that Singer may have not been able to articulate because he fails to take into ¶ account the political nature of death. One of the criticisms that has been lodged against ¶ Singer is that his ethics closely parallels Nazi eugenics programs in which the medical ¶ establishment made decisions on whose life was worth living. This criticism bridges the ¶ gap between Singerís work and the point I have been making through this piece- biopower is intimately enmeshed with sovereignty. ¶ Foucault saw this combination at work primarily in totalitarian regimes. ¶ However, as Agamben argues, the distinctions between totalitarian regimes and ¶ democracies are crumbling. I argue in my Conclusion that modern power is increasingly ¶ an amalgamation between the bio-political and the thanatopolitical. For power can both ¶ manage life and expose us to death. What is crucial to take from this analysis is that we ¶ must formulate some sort of individual resistance to this power, even though techniques ¶ of modern bio-power (bureaucratic planning, statistical analysis, population control) may ¶ xpose us to death as a population rather than as individuals. This resistance must be ¶ something greater than simply a call for physician assisted suicide or an appeal for ¶ individual ownership of our bodies, it must first center on an engagement with what ¶ about life is really worth preserving.

Our alternative is to shake out the rug from under the 1ac's mode of legal analysis.

Singer 84 - Associate Professor of Law (Joseph William Singer, Associate Professor of Law at Boston University, 1984, [“The Player and the Cards: Nihilism and Legal Theory,” Yale Law Journal (94 Yale L.J. 1)

What shall we do then about legal theory? I think we should abandon the idea that what we are supposed to be doing is applying or articulating a rational method that will tell us once and for all (or even for our generation) what we are supposed to believe and how we are supposed to live. We should no longer view the project of giving a "rational foundation" for law as a worthwhile endeavor. If morality and law are matters of conviction rather than logic, we have no reason to be ashamed that our deeply felt beliefs have no "basis" that can be demonstrated through a rational decision procedure or that we cannot prove them to be "true" or "right." Rorty has distinguished between two broad types of theory: systematic and edifying. n165 Systematic philosophers build systems of thought that they claim explain large bodies of material, guide theoretical development, and generate answers to difficult questions. Systematizers can be either normal or revolutionary philosophers. The normal systematizers work within established tradition; the revolutionary systematizers seek to replace the established paradigm with a new, better, or truer paradigm of thought. Both try to establish a framework that will set bounds on the legitimate content of discourse. Edifying philosophers, on the other hand, seek to shake the rug out from under existing normal or abnormal systems of thought. They seek to make us doubt the necessity and coherence of our views. They seek to free us from feeling that we have "gotten" the answer and that we no longer need to question ourselves about what we stand for. Edifying philosophers do not seek to induce people to give up their moral views. They do not [\*58] argue against profound political commitment. Rather, they strive to make us realize that our views are matters of commitment rather than knowledge. n166 Legal scholars can perform an edifying role by broadening the perceived scope of legitimate institutional alternatives. n167 One way to do this is to demonstrate the contingent and malleable nature of legal reasoning and legal institutions. The greatest service that legal theorists can provide is active criticism of the legal system. Criticism is initially reactive and destructive, rather than constructive. But our mistaken belief that our current ways of doing things are somehow natural or necessary hinders us from envisioning radical alternatives to what exists. To exercise our utopian imagination, it is helpful first to expose the structures of thought that limit our perception of what is possible. Judges rationalize their decisions as the results of reasoned elaboration of principles inherent in the legal system. Instead of choosing among available descriptions, theories, vocabularies, and course of action, the official who feels "bound" reasons from nonexistent "grounds" and hides from herself the fact that she is exercising power. n168 By systematically and constantly criticizing the rationalizations [\*59] of traditional legal reasoning, we can demonstrate, again and again, that a wider range of alternatives is available to us. I therefore advocate the persistent demonstration in all doctrinal fields that both the legal rules in force and the arguments that are presented to justify and criticize them are incoherent. n169 They are incoherent because they are constructed in ways that make it impossible for them to satisfy their own claims to determinacy, objectivity and neutrality. n170 Legal theory is at war with itself. This kind of criticism would be useful even if we could not imagine a satisfactory alternative to traditional legal theory. Such criticism reminds us that legal theory cannot answer the question of how we are going to live together. We are going to have to answer that question ourselves.

### Off

#### Thus, we present the counter plan: United States federal courts should rule that the preventative detention of material witnesses in the war on terror is unconstitutional.

And, the affirmatives use of quotation around a word they want to call attention to is called a scare quotation - this causes personal distancing from politics and is used to shirk responsibility for the political and ethical baggage of the term

Essay Coursework- accessed 11/01/11 Quotation Marks <http://www.essaycoursework.com/howtowriteessaynet/punctuation/quotation-marks.php>

The use of quotation marks can be extended to cases which are not exactly direct quotations. Here is an example: Linguists sometimes employ a technique they call "inverted reconstruction". The phrase in quote marks is not a quotation from anyone in particular, but merely a term which is used by some people ‹ in this case, linguists. What the writer is doing here is distancing himself from the term in quotes. That is, he's saying "Look, that's what they call it. I'm not responsible for this term." In this case, there is no suggestion that the writer disapproves of the phrase in quotes, but very often there is a suggestion of disapproval: The Institute for Personal Knowledge is now offering a course in "self-awareness exercises". Once again, the writer's quotes mean "this is their term, not mine", but this time there is definitely a hint of a sneer: the writer is implying that, although the Institute may call their course "self-awareness exercises", what they're really offering to do is to take your money in exchange for a lot of hot air .Quotation marks used in this way are informally called scare quotes. Scare quotes are quotation marks placed around a word or phrase from which you, the writer, wish to distance yourself because you consider that word or phrase to be odd or inappropriate for some reason. Possibly you regard it as too colloquial for formal writing; possibly you think it's unfamiliar or mysterious; possibly you consider it to be inaccurate or misleading; possibly you believe it's just plain wrong. Quite often scare quotes are used to express irony or sarcasm: The Serbs are closing in on the "safe haven" of Gora^@de. The point here is that the town has been officially declared a safe haven by the UN, whereas in fact, as the quote marks make clear, it is anything but safe. Here's another example: Sharon Stone made dozens of "adult films" before getting her Hollywood break. The phrase `adult films' is the industry's conventional label for pornographic films, and here the writer is showing that she recognizes this phrase as nothing more than a dishonest euphemism. It is important to realize this distancing effect of scare quotes. Quotation marks are not properly used merely in order to draw attention to words, and all those pubs which declare We Sell "Traditional Pub Food" are unwittingly suggesting to a literate reader that they are in fact serving up microwaved sludge. Some writers perhaps take the use of scare quotes a little too far: I have just been "ripped off" by my insurance company. Here the writer is doing something rather odd: she is using the phrase `ripped off', but at the same time she is showing her distaste for this phrase by wrapping it in quotes. Perhaps she regards it as too slangy, or as too American. Using scare quotes like this is the orthographic equivalent of holding the phrase at arm's length with one hand and pinching your nose with the other. I can't really approve of scare quotes used in this way. If you think a word is appropriate, then use it, without any quotes; if you think it's not appropriate, then don't use it, unless you specifically want to be ironic. Simultaneously using a word and showing that you don't approve of it will only make you sound like an antiquated fuddy-duddy.

### Case

1.) The Maoist Turn:

a.) How progressive of you, right on! the 1AC is apt in describing the ethical injustice of indefinite detention, but leaves out how it is pertinent FOR THEM - this destroys their solvency and the potential for coalitions.

Halberstam 13 - Professor of English and Director of The Center for Feminist Research at University of Southern California. (Jack, http://www.minorcompositions.info/wp-content/uploads/2013/04/undercommons-web.pdf, The Undercommons: Fugitive Planning and Black Study) -modified

These kinds of examples get to the heart of Moten and Harney’s world of the undercommons – the undercommons is not a realm where we rebel and we create critique; it is not a place where we “take arms against a sea of troubles/and by opposing end them.” The undercommons is a space and time which is always here. Our goal – and the “we” is always the right mode of address here – is not to end the troubles but to end the world that created those particular troubles as the ones that must be opposed. Moten and Harney refuse the logic that stages refusal as inactivity, as the absence of a plan and as a mode of stalling real politics. Moten and Harney tell us to listen to the noise we make and to refuse the offers we receive to shape that noise into “music.” In the essay that many people already know best from this volume, “The University and the Undercommons,” Moten and Harney come closest to explaining their mission. Refusing to be for or against the university and in fact marking the critical academic as the player who holds the “for and against” logic in place, Moten and Harney lead us to the “Undercommons of the Enlightenment” where subversive intellectuals engage both the university and fugitivity: “where the work gets done, where the work gets subverted, where the revolution is still black, still strong.” The subversive intellectual, we learn, is unprofessional, uncollegial, passionate and disloyal. The subversive intellectual is neither trying to extend the university nor change the university, the subversive intellectual is not toiling in misery and from this place of misery articulating a “general antagonism.” In fact, the subversive intellectual enjoys the ride and wants it to be faster and wilder; she does not want a room of his or her own, she wants to be in the world, in the world with others and making the world anew. Moten insists: “Like Deleuze. I believe in the world and want to be in it. I want to be in it all the way to the end of it because I believe in another world in the world and I want to be in that. And I plan to stay a believer, like Curtis Mayfield. But that’s beyond me, and even beyond me and Stefano, and out into the world, the other thing, the other world, the joyful noise of the scattered, scatted eschaton, the undercommon refusal of the academy of misery.” The mission then for the denizens of the undercommons is to recognize that when you seek to make things better, you are not just doing it for the Other, you must also be doing it for yourself. While men may think they are being “sensitive” by turning to feminism, while white people may think they are being right on by opposing racism, no one will really be able to embrace the mission of tearing “this shit down” until they realize that the structures they oppose are not only bad for some of us, they are bad for all of us. Gender hierarchies are bad for men as well as women and they are really bad for the rest of us. Racial hierarchies are not rational and ordered, they are chaotic and nonsensical and must be opposed by precisely all those who benefit in any way from them. Or, as Moten puts it: “The coalition emerges out of your recognition that it’s [messed] up for you, in the same way that we’ve already recognized that it’s fucked up for us. I don’t need your help. I just need you to recognize that this shit is killing you, too, however much more softly, you stupid motherfucker, you know?” coalition unites us in the recognition that we must change things or die. All of us. We must all change the things that are fucked up and change cannot come in the form that we think of as “revolutionary” – not as a masculinist surge or an armed confrontation. Revolution will come in a form we cannot yet imagine. Moten and Harney propose that we prepare now for what will come by entering into study. Study, a mode of thinking with others separate from the thinking that the institution requires of you, prepares us to be embedded in what Harney calls “the with and for” and allows you to spend less time antagonized and antagonizing. Like all world-making and all world-shattering encounters, when you enter this book and learn how to be with and for, in coalition, and on the way to the place we are already making, you will also feel fear, trepidation, concern, and disorientation. The disorientation, Moten and Harney will tell you is not just unfortunate, it is necessary because you will no longer be in one location moving forward to another, instead you will already be part of “the “movement of things” and on the way to this “outlawed social life of nothing.” The movement of things can be felt and touched and exists in language and in fantasy, it is flight, it is motion, it is fugitivity itself. Fugitivity is not only escape, “exit” as Paolo Virno might put it, or “exodus” in the terms offered by Hardt and Negri, fugitivity is being separate from settling. It is a being in motion that has learned that “organizations are obstacles to organising ourselves” (The Invisible Committee in The Coming Insurrection) and that there are spaces and modalities that exist separate from the logical, logistical, the housed and the positioned. Moten and Harney call this mode a “being together in homelessness” which does not idealize homelessness nor merely metaphorize it. Homelessness is the state of dispossession that we seek and that we embrace: “Can this being together in homelessness, this interplay of the refusal of what has been refused, this undercommon appositionality, be a place from which emerges neither self-consciousness nor knowledge of the other but an improvisation that proceeds from somewhere on the other side of an unasked question?” I think this is what Jay-Z and Kanye West (another collaborative unit of study) call “no church in the wild.”

b.) Absent this discussion, the affirmative occupies the position of the Maoist - the impact is imperialism and a reproduction of the harms of the 1ac.

the Rey Chow, Comparative Literature—Brown University, 1993

Writing Diaspora, p. 15-16

The Orientalist has a special sibling whom I will, in order to highlight her significance as a kind of representational agency, call the Maoist. Arif Dirlik, who has written extensively on the history of political movements in twentieth-century China, sums up the interpretation of Mao Zedong commonly found in Western Marxist analyses in terms of a "Third Worldist fantasy"—"a fantasy of Mao as a Chinese reincarnation of Marx who fulfilled the Marxist promise that had been betrayed in the West."'6 The Maoist was the phoenix which arose from the ashes of the great disillusionment with Western culture in the 1960s and which found hope in the Chinese Communist Revolution.17 In the 1970s, when it became possible for Westerners to visit China as guided and pampered guests of the Beijing establishment, Maoists came back with reports of Chinese society's absolute, positive difference from Western society and of the Cultural Revolution as "the most important and innovative example of Mao's concern with the pursuit of egalitarian, populist, and communitarian ideals in the course of economic modernization" (Harding, p. 939). At that time, even poverty in China was regarded as "spiritually ennobling, since it meant that [the] Chinese were not possessed by the wasteful and acquisitive consumerism of the United States" (Harding, p. 941). Although the excessive admiration of the 1970s has since been replaced by an oftentimes equally excessive denigration of China, the Maoist is very much alive among us, and her significance goes far beyond the China and East Asian fields. Typically, the Maoist is a cultural critic who lives in a capitalist society but who is fed up with capitalism—a cultural critic, in other words, who wants a social order opposed to the one that is supporting her own undertaking. The Maoist is thus a supreme example of the way desire works: What she wants is always located in the other, resulting in an iden-tification with and valorization of that which she is not/does not have. Since what is valorized is often the other's deprivation—"having" poverty or "having" nothing—the Maoist's strategy becomes in the main a rhetorical renunciation of the material power that enables her rhetoric. In terms of intellectual lineage, one of the Maoist's most important ancestors is Charlotte Bronte's Jane Eyre. Like Jane, the Maoist's means to moral power is a specific representational position—the position of powerlessness. In their reading of Jane Eyre, Nancy Armstrong and Leonard Tennenhouse argue that the novel exemplifies the paradigm of violence that expresses its dominance through a representation of the self as powerless: Until the very end of the novel, Jane is always excluded from every available form of social power. Her survival seems to depend on renouncing what power might come to her as teacher, mistress, cousin, heiress, or missionary's wife. She repeatedly flees from such forms of inclusion in the field of power, as if her status as an exemplary subject, like her authority as narrator, depends entirely on her claim to a kind of truth which can only be made from a position of powerlessness. By creating such an unlovely heroine and subjecting her to one form of harassment after another, Bronte demonstrates the power of words alone. This reading of Jane Eyre highlights her not simply as the female underdog who is often identified by feminist and Marxist critics, but as the intellectual who acquires power through a moral rectitude that was to become the flip side of Western imperialism's ruthlessness. Lying at the core of Anglo-American liberalism, this moral rectitude would accompany many territorial and economic conquests overseas with a firm sense of social mission. When Jane Eyre went to the colonies in the nineteenth century, she turned into the Christian missionary. It is this understanding—that Bronte's depic-tion of a socially marginalized English woman is, in terms of ideological production, fully complicit with England's empire-building ambition rather than opposed to it—that prompted Gayatri Spivak to read Jane Eyre as a text in the service of imperialism. Referring to Bronte's treatment of the "madwoman" Bertha Mason, the white Jamaican Creole character, Spivak charges Jane Eyre for, precisely, its humanism, in which the "native subject" is not created as an animal but as "the object of what might be termed the terrorism of the categorical imperative." This kind of creation is imperialism's use/travesty of the Kantian metaphysical demand to "make the heathen into a human so that he can be treated as an end in himself."19 In the twentieth century, as Europe's former colonies became independent, Jane Eyre became the Maoist. Michel de Certeau describes the affinity between her two major reincarnations, one religious and the other political, this way: The place that was formerly occupied by the Church or Churches vis-4-vis the established powers remains recognizable, over the past two centuries, in the functioning of the opposition known as leftist. [T]here is vis-A-vis the established order, a relationship between the Churches that defended an other world and the parties of the left which, since the nineteenth century, have promoted a different future. In both cases, similar functional characteristics can be discerned. . . The Maoist retains many of Jane's awesome features, chief of which are a protestant passion to turn powerlessness into "truth" and an idealist intolerance of those who may think differently from her. Whereas the great Orientalist blames the living "third world" natives for the loss of the ancient non-Western civilization, his loved object, the Maoist applauds the same natives for personifying and fulfilling her ideals. For the Maoist in the 1970s, the mainland Chinese were, in spite of their "backwardness," a puritanical alternative to the West in human form—a dream come true.

2.) Drones DA

a.) Capture over drones now

David **Corn 13**, Washington Bureau Chief at Mother Jones, 5/23/13, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties

So **Obama's speech Thursday on counterterrorism policies**—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—**is a big deal, for** with this address, **Obama is self-restricting his use of drones and shifting control of them** from the CIA to the military. And the president has approved making public the rules governing drone strikes.¶ The New York Times received the customary pre-speech leak and reported:¶ **A new classified policy guidance** signed by Mr. Obama **will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones,** countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.¶ **Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans"** and cannot feasibly be captured**,** Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted.¶ These moves may not satisfy civil-liberties-minded critics on sthe right and the left**. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though** he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here **is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly.** This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?)¶ Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis.¶ With this speech, **Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process.** The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and **Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans."** (Certainly, **there will be debates over the meaning of "imminent,"** especially given that the Obama administration has previously used an elastic definition of imminence.) And **Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism.**

b.) Plan spurs shift towards drones

**Chesney 11** (Robert, Charles I. Francis Professor in Law, University of Texas School of Law, “ARTICLE: WHO MAY BE HELD? MILITARY DETENTION THROUGH THE HABEAS LENS”, Boston College Law Review, 52 B.C. L. Rev 769, Lexis)

The convergence thesis describes one manner in which **law might respond to** the **cross-cutting pressures associated with** the **asymmetric warfare** phenomenon—i.e., **the pressure to** reduce false positives (targeting, capture, or detention of the wrong individual) while also **ensur**ing an **adequate capacity to neutralize the non-state actors in question**. One must bear in mind, however, that **detention** itself **is not the only system of government action that can satisfy that latter interest. Other options exist, including the use of lethal force**; the use of rendition to place individuals in detention at the hands of some other state; the use of persuasion to induce some other state to take custody of an individual through its own means; and perhaps also the use of various forms of surveillance to establish a sort of constructive, loose control over a person (though for persons located outside the United States it is unlikely that surveillance could be much more than episodic, and thus any resulting element of “control” may be quite weak).210¶ From the point of view of the individual involved, all but the last of **these options are likely to be far worse experiences than** U.S.-administered **detention**. In addition, **all** but the last **are** also likely to be far **less useful for** purposes of **intelligence-gathering** from the point of view of the U.S. government.211 Nonetheless, these **alternatives may** **grow attractive to the government in circumstances where the detention alternative becomes unduly restricted, yet the pressure for intervention remains. The situation is** rather **like squeezing a balloon: the result is not to shrink the balloon, but instead to displace the pressure from one side to another, causing the balloon to distend along the unconstrained side**. So too here: **when one of these coercive powers becomes constrained in** new, more **restrictive ways, the displaced pressure to incapacitate may simply find expression through one of the alternative mechanisms**. On this view **it is no surprise that lethal drone strikes have increased dramatically over the past two years**, that the Obama administration has refused to foreswear rendition, that in Iraq we have largely (though not entirely) outsourced our detention operations to the Iraqis, and that we now are progressing along the same path in Afghanistan.212¶ **Decisions regarding the calibration o**f a **detention** system—the¶ management of the convergence process, if you will—**thus take place in the shadow of this balloon-squeezing phenomenon**. A thorough policy review would take this into account, as should any formal lawmaking process. For the moment, however, our formal law-making process is not directed at the detention-scope question. Instead, clarification and development with respect to the substantive grounds for detention takes place through the lens of habeas corpus litigation.

Turns the aff - signature strikes prove that material witnesses will be grouped into perceived terrorists groups.

The critique is selectively critical- there are objective threats in the Muslim world that must be confronted regardless of philosophical pandering

Ned Vankevich (Associate Professor of Communications at Trinity Western University in Langley, British Columbia, Canada) Confronting the Uncomfortable: Postmodernity and the Quandary of Evil Rhetoric & Public Affairs 6.3 (2003) pg. 554-566

In asking these questions I do not mean to endorse the polarizing, demonizing, and bellicostic rhetoric that too often licenses unjust acts of repressive destruction toward the "hated Other." As Eduardo Galeano reminds us, "in the battle between good and evil it is always the people that get killed." 22 Rather, the issue I address is how do we best stop such mutually destructive rhetoric and the actions it produces? The gruesome body parts strewn around the World Trade Center and the mutilated corpses of Israeli children vividly remind us that the actions of suicide bombers need to be addressed. We cannot selectively dismiss the barbarisms of America's enemies. One-sided critiques that only focus on or blame the policies of the U.S. government conveniently elude the more difficult and radical problems that need to be addressed. Bin Laden, Al Qaeda, the Salafists, and other militant Muslim groups are a credible threat to a number of countries, both Western and non-Western. 23 In fact Muslim-on-Muslim violence far surpasses that of the so-called militant Muslim versus Western civilization violence. 24 In light of this, I submit that we need to move beyond nullifying rhetorics that only critique and deconstruct one side of a complex multisided issue, that reflects the tendency to blame America and its leaders for militant Islam without considering the complex gestalt of geopolitics and indigenous cultural history. We need new forms of prudential rhetoric that offer viable solutions to the grave sociopolitical problems that beset us.

The criticism is an attempt at censorship- it seeks to stifle any discussion even tangentially connected to Islam. This conflates legitimate discussions with racism making it impossible to combat real racism

Dr. Koenraad Elst (Belgium-based writer on comparative religion, Indian history, and Hindu-Muslim relations, phd philosophy from Catholic University of Leuven) Afterword: The Rushdie Affair's Legacy. Accessed November 8, 2011 http://koenraadelst.bharatvani.org/articles/misc/rushdie.html

Intimidation The traditional Muslim countries may be where the Rushdie rules are most often applied, but they also extend now to the West as well. In March 1989, French singer Véronique Sanson performed a song titledAllah in a show at the Paris Olympia Hall, which begins with the story of a Lebanese female suicide-bomber, then implores God: Allah, why the fire and thunder?  Why do you wage this war? . . .  It is you whom they are using.  It is in your name that they are fighting. . . .  If I were you, I wouldn't be proud.[53] Sanson received death threats after just one performance of this song, so she immediately removed it from her program. "I am not so much afraid for myself," she explained. "But I cannot run the risk of endangering the lives of my musicians and of the thousands of people in the audience."[54] Mostly, however, the main brake on critical discussion of Islam in the West results not from physical threats but from subtle and not-so-subtle forms of censorship. Westerners who have critical things to say about Islam render themselves unemployable. The French civil servant Jean-Claude Barreau, head of the administration for the integration of immigrants, was sacked in 1991 for publishing a book in which he questioned the "golden legend" of the "great Islamic civilization" which is only believed because "man's capacity for self-deception is enormous." He called the spread of Islam "one of the great catastrophes in history," pointing out that agriculture collapsed where peasants converted to Islam, a city-based religion: "The Muslims are not the sons but the fathers of the desert."[55] Strong language, certainly, and critics discovered a number of errors of detail in the book, but Barreau was right to point out that similar criticism of Christianity would never have caused his dismissal. Barreau called himself a victim of the taboo on critical discussion of Islam.[56] In France, the late bishop Marcel Lefebvre, leader of the traditionalist Catholics, was sentenced to pay a fine of 5,000 French francs (about $900) for his "racist" statement, to a non-Muslim audience, that when the Muslims presence becomes even stronger, "it is your wives, your daughters, your children who will be kidnapped and dragged off to a certain kind of places as they exist in Casablanca [Morocco]."[57] That a prominent bishop can be brought before a court for evoking the historical fact of European slavery at the hands of Muslim slavers is a sign of a new power equation. (In contrast, British Muslim leader Kalim Siddiqui was not prosecuted for blaming European civilization for all the evils of the modern world, nor even for breaking the law by publicly calling for the murder of Salman Rushdie.) And Lefebvre got off lightly, the judge having ruled that he had not "actively incited to discrimination," in which case he would have received a prison sentence plus a fine of 300,000 francs. Fines of this magnitude have recently been imposed twice on actress and animal-rights activist Brigitte Bardot for comparing Muslim settlement in France to the Nazi occupation, and for saying: "Tomorrow, the Muslims who cut the throats of innocent sheep to celebrate Eid, may well cut the throat of human beings, as is already being done in Algeria."[58] In 1994, the city government of Geneva organized the performance of all of Voltaire's theatre plays to celebrate the famous freethinker's 300th birthday. However, the Muslim community (not Islamists, but state-subsidized cultural foundations) objected to the staging by director Hugues Loichemol of Voltaire's play, first staged in 1742, Mahomet ou le fanatisme, an attack on religious intolerance based on the Muslim biography of Muhammad in which he orders the murder of his critics.[59] The city government withdrew funding for the play and no one dared come forward in response to Loichemol's plea for private sponsorship, so the performance was cancelled.[60] Those in the West who speak out critically in their own name sometimes must live underground. This is the case for Steven Emerson, the American journalist researching Islamist networks in the United States,[61] and 'Abd al-Qadir Yasin, a Palestinian writer and ex-assistant of Yasir Arafat, now living in Sweden. Yasin comments: Rushdie has written what we wanted to say. He has told the world that we exist. He ended our isolation. But at the same time he has isolated us again. He has freed us only to put us in chains again. Now it has become entirely impossible to see anything in the Qur'an except a sacred and unassailable book of God. Yasin also testified from personal experience how difficult and dangerous it is to speak one's doubts about Islam even with friends, always knowing that "when we declare ourselves separated from the faith, it is the duty of the faithful to put us to justice."[62] A number of books on Islam, even serious and important works, are now published under pseudonym. Thus, the apostate Muslim author Why I Am Not a Muslim, a well-argued secular-humanist critique of Islam, felt compelled to hide his identity behind a false name.[63] So did the nationalist French author of Islamism and the United States: An Alliance against Europe, which sees a conspiracy in America's pressure on the European Union to admit Turkey and its all-out American support for the Bosnian Muslims.[64] Then there is the case of the book published in 1990 by a Muslim who called himself "Mohamed Rasoel,"[65] The Impending Ruin of the Netherlands, Country of Gullible Fools,[66] which deserves special attention. Warning that the Dutch are mistaken to tolerate the establishment of Islamic institutions and the mushrooming growth of their Muslim population, The Impending Ruin of the Netherlands predicted this would lead to a civil war and the country's partition. Significantly, the author's first warning to this effect was an unsolicited guest column in a Rotterdam daily during the heat of the Rushdie controversy.[67] Many progressive intellectuals reacted to the book in a vicious way. For example, the Hindu-born secularist Anil Ramdas equated its author with Khomeini, saying that he was "revealing himself as an intentional murderer."[68] A number of bookstores refused to sell the book.[69] Unwilling to reveal his whereabouts, the author did grant media interviews, prompting the Dutch press frantically to try to uncover his real identity. A television talk show host tried to grab his passport and pull off the shawl with which he covered his face; a Muslim politician was ostensibly willing to talk to him, only to pass his teacup onto the police for the fingerprints. After a few months of cat-and-mouse, this effort finally succeeded; the author turned out to be a Pakistani cabaret artist living in Edam who was known to the public only as "Zoka F." Rendering his last name with only the initial reflected the fact that by the time he became known, the author had become a suspect in a court case; the Anne Frank Foundation, of all things, then controlled by the far Left, had brought charges of racism against Rasoel. During the course of the trial in 1992, the Dutch public beheld the remarkable spectacle of a dark-skinned immigrant shouted down by the press and sentenced to a heavy fine by white judges, while his white collaborators - the publisher and translator (from broken English to Dutch) of his book - were acquitted. The judge decided that Rasoel had made "unjustified generalizations" by contrasting "soft Dutchmen" with "crude, cruel, corrupt and bloodthirsty Muslims."[70] Although the verdict left Rasoel with a large debt, he felt vindicated by it: It proves that the general thrust of my book is correct, that Dutch society is changing and becoming less tolerant. Freedom of opinion is already being sacrificed. I don't blame this state attorney, he is a nice man but rather dumb and naïve like most Dutchmen. . . . Muslims are allowed to shout: kill Rushdie. . . . When Muslims say on TV that all Dutch women are whores, it is allowed. . . . It is ridiculous and scandalous that I have to justify myself in court for discrimination of Muslims.[71] Rasoel's case points to the fact that the proliferation of anti-racist legislation offers a mechanism to punish critics of Islam; in addition to the Netherlands, it has already been used to this effect in France and Belgium. This is doubly ironic: For one, there are plenty of critics of Islam by not-so-white people, especially former Muslims.[72] For another, real racism, i.e. belief in the inequality of races, is now definitely at its lowest ebb in centuries. Still, the highly charged accusation of racism is now used for an ever-widening spectrum of non-racist opinions, from xenophobia (which is indeed on the rise) to legitimate criticism of cultural expressions associated with immigrant groups. The anti-racism laws also include the creation of a legal category of "opinion crimes" that can be used to suppress opinions having nothing to do with racism.

We cannot break down the walls separating liberal democracy from Islam without embracing security

Etzioni, Professor Sociology George Washington, 2007(Amitai, “Security First: For a Muscular, Moral Foreign Policy” p 92-93)

Why should people of such faith not be included on our side of the civilization fault line? To be courted to be our allies, in opposition to the apostles of violence? To put it differently, we can dream of a world in which everyone respects all human rights and we can prefer liberal democracy over all other forms of government. We can try to convince all people to embrace the beliefs and the form of regime which we cherish. However, we should restrain from sending Special Forces or cruise missiles to transform others into supporters of the particular beliefs we champion. And we should limit our desires for now and focus on the more realistic goal of promoting a world in which everyone renounces violence against other peoples and their own, putting security first. The full importance of this point will come into full relief once the policy implications of these different fault lines are elicited. For now I merely note that it takes much more to foster liberal democracy than to lead people to foreswear violence. And that if we ally ourselves only with the champions of liberalism our lines will be short—and remain short for along time to come—while if we join with those who favor persuasion. The majority of people in the world will be in our camp. quite naturally.” To give a pictorial expression to my point, the following simple chart may serve. The estimates of the size of each camp are merely illustrative al- though some polling data follow in Chapter D below. Aside from being grossly unfair to tar all true believers as supporters of violence, as holy or secular Warriors, this presumption also severely misguides public policy. It leaves hundreds of millions of people on the wrong side of a line that separates us from our true opponents. It leaves out all the true believers who favor persuasion over violence, those with whom we should ally ourselves in the war on terror. People of a given faith often argue that although it is true enough that there are some Warriors in their camp, and that beliefs that sanction violence can be found in their texts and exhortations, there are many more in everyone else's camps. This may well be the case, but it should be noted that these proportionalities, the ratios of Warriors as compared to Preachers, have changed throughout history. Thus in recent decades there have been relatively few Christian Warriors, while during the period of the Crusades they were quite common. And there have been more Jewish Warriors since Israel was reestablished than during the centuries in which Jews were stateless and dispersed in the Diaspora, and so on. Moreover, the same group can switch from one camp to the other, as the IRA did in Ireland, and as one hopes Hamas will also do one day in Palestine. The same holds for individual leaders such as Malcolm X, who once advocated violent revenge against whites, but became much less of a Warrior in his later years. More generally, while for ﬁrst-approximation purposes I divided the belief systems—and their respective champions- into two categories, within each a large variety of gradations can be found. However, when all is said and done, one can distinguish beliefs that systemically sanction violence from those that argue for persuasion. And one can tell quite readily whether or not a given person, political faction, or religious sect is on a war footing, or seeking to win the hearts and minds of others without coercion—within a given period of time.

### 2nc

no reason to vote affirmative—there is no connection between the recommendations of the 1AC and material agency.

Schlag ‘90 (Pierre, professor of law at the University of Colorado, Stanford Law Review, lexis, AM)

In fact, normative legal thought is so much in a hurry that it will tell you what to do even though there is not **the slightest chance** that you might actually be in a position to do it. For instance, when was the last time you were in a position to put the difference principle n31 into effect, or to restructure [\*179] the doctrinal corpus of the first amendment? "In the future**, we should.** . . ." When was the last time you were in a position to rule whether judges should become pragmatists, efficiency purveyors, civic republicans, or Hercules surrogates? Normative legal thought doesn't seem overly concerned with such worldly questions about the character and the effectiveness of its own discourse. It just goes along and proposes, recommends, prescribes, solves, and resolves. Yet despite its obvious desire to have worldly effects, worldly consequences, normative legal thought remains seemingly unconcerned that for all **practical purposes,** its only consumers are legal academics and perhaps a few law students -- persons who are virtually never in a position to put any of its wonderful normative advice into effect.

### Perm debate

The courts are so slow and cumbersome and have a history of failure - star this card.

Scheppele 12—Professor of Sociology and Public Affairs @ Princeton University [Kim Lane Scheppele (Dir. of the Program in Law and Public Affairs @ Princeton University), “The New Judicial Deference,” Boston University Law Review, 92 B.U.L. Rev. 89, January 2012]

In this Article, I will show that American courts have often approached the extreme policies of the anti-terrorism campaign by splitting the difference between the two sides—the government and suspected terrorists. One side typically got the ringing rhetoric (the suspected terrorists), and the other side got the facts on the ground (the government). In major decisions both designed to attract public attention and filled with inspiring language about the reach of the Constitution even in times of peril, the Supreme Court, along with some lower courts, has stood up to the government and laid down limits on anti-terror policy in a sequence of decisions about the detention and trial of suspected terrorists. But, at the same time, these decisions have provided few immediate remedies for those who have sought the courts' protection. As a result, suspected terrorists have repeatedly prevailed in their legal arguments, and yet even with these court victories, little changed in the situation that they went to court to challenge. The government continued to treat suspected terrorists almost as badly as it did before the suspected terrorists "won" their cases. And any change in terrorism suspects' conditions that did result from these victorious decisions was slow and often not directly attributable to the judicial victories they won. Does this gap between suspected terrorists' legal gains and their unchanged fates exist because administration officials were flouting the decisions of the courts? The Bush Administration often responded with sound and fury and attempted to override the Supreme Court's decisions or to comply minimally with them when they had to. n6 But, as this Article will show, these decisions did not actually require the government to change its practices very quickly. The decisions usually required the government to change only its general practices in the medium term. Judges had a different framework for analyzing the petitioners' situation than the petitioners themselves did; judges generally couched their decisions in favor of the suspected terrorists as critiques of systems instead of as solutions for individuals. In doing so, however, courts allowed a disjuncture between rights and remedies for those who stood before them seeking a vindication of their claims. Suspected terrorists may have won [\*92] in these cases—and they prevailed overwhelmingly in their claims, especially at the Supreme Court—but courts looked metaphorically over the suspects' heads to address the policies that got these suspects into the situation where the Court found them. Whether those who brought the cases actually got to benefit from the judgments, either immediately or eventually, was another question. Bad though the legal plight of suspected terrorists has been, one might well have expected it to be worse. Before 9/11, the dominant response of courts around the world during wars and other public emergencies was to engage in judicial deference. n7 Deference counseled courts to stay out of matters when governments argued that national security concerns were central. As a result, judges would generally indicate that they had no role to play once the bullets started flying or an emergency was declared. If individuals became collateral damage in wartime, there was generally no judicial recourse to address their harms while the war was going on. As the saying goes, inter arma silent leges: in war, the law is mute. After 9/11, however, and while the conflict occasioned by those attacks was still "hot," courts jumped right in, dealing governments one loss after another. n8 After 9/11, it appears that deference is dead. [\*93] But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received [\*94] from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives. Courts may appear to be bold in these cases because they tell governments to craft new policies to deal with terrorism. But because the new policies then have to be tested to see whether they meet the new criteria courts have laid down, the final approval may take years, during which time suspected terrorists may still be generally subjected to the treatment that courts have said was impermissible. Because judicial review of anti-terrorism policies itself drags out the time during which suspected terrorists may be detained, suspected terrorists win legal victories that take a very long time to result in change that they can discern. As a result, governments win the policy on the ground until court challenges have run their course and the courts make decisions that contribute to the time that the litigation takes. This is the new face of judicial deference. This Article will explore why and how American courts have produced so many decisions in which suspected terrorists appear to win victories in national security cases. As we will see, many judges have handled the challenges that terrorism poses for law after 9/11 by giving firm support, at least in theory, to both separation of powers and constitutional rights. Judges have been very active in limiting what the government can do, requiring substantial adjustments of anti-terrorism policy and vindicating the claims of those who have been the targets. But the solutions that judges have crafted—often bold, ambitious, and brave solutions—nonetheless fail to address the plights of the specific individuals who brought the cases. This new form of judicial deference has created a slow-motion brake on the race into a constitutional abyss. But these decisions give the government leeway to tackle urgent threats without having to change course right away with respect to the treatment of particular individuals. New deference, then, is a mixed bag. It creates the appearance of doing something—an appearance not entirely false in the long run—while doing far less in the present to bring counter-terrorism policy back under the constraint of constitutionalism.

#### Juridical logic must be completely abandoned—a completely new analytics of power must be constructed in its place

Minkkinen 97. Panu Minkkinen, faculty of law at the University of Helsinki, “The Juridical Matrix,” Social & Legal Studies 1997 6: pg. 434

The other set of questions refers to the ’founding’ relation of social, non-discursive practices in relation to discursive practices. How can one account for Foucault’s obstinacy in explaining this relation with juridical and quasijuridical terminology? How should one integrate theoretically the regulative logic of, for example, the rules of formation (Foucault, 1969: 53) to Foucault’s later position on refuting the repressive hypothesis according to which a juridical logic must be abandoned altogether: ’This image we must break free of, namely, of the theoretical privilege of law and sovereignty, if we wish to analyse the concrete and historical development of the methods of power. A power-analytics must be constructed that no longer follows law as a model and a code’ (1976: 118-19). The question, then, concerns the juridical nature of the internal logic of Foucault’s theory. The central position of power in Foucault’s later work cannot account for this logic. But in the introduction of Surveiller et punir, Foucault clarifies one aim of the research by referring to matrices: Instead of treating the histories of penal law and the human sciences as two separate series whose overlapping would have had, depending on one’s perspective, either a damaging or a useful effect on one or the other - or perhaps on both - we should look into the possibility of a common matrix or that they both derive from a ’juridico-epistemological’ process of formation. (1975: 28) In other words, discursive practices such as penal law and the human sciences share a matrix that, in turn, is inferred from social practices such as the prison. Later Foucault (1975: 186-94) does take up the matrix of examination (examen), a ritual connected to the formation of knowledge that enables the singularization and the objectification required by disciplinary power. The essential components of the examination are the moving of the domain of visibility from its source to its objects; the development of detailed and observable characteristics suitable for documentation; and, lastly, with the help of the developed symptomatology, the possibility of singularizing the visible object of power: ’the examination is at the centre of the procedures that constitute the subject as effect and object of both power and knowledge’ (p. 194). In La volonté de savoir, Foucault differentiates the objective effect of the examination from the subjective effect of the confession (aveu). In the confession, the speaking subject and the subject of speech become one in a juridico-religious ritual in which ’truth is authenticated by the obstacles and resistances it has had to overcome in order to be formulated’ (1976: 83). The matrix is not a social practice as such but a structural reduction thereof - of juridical practices, medical practices, religious practices and so on (cf. 1994b: 316-18). Through the procedures, the matrix uniting different social practices effects the discursive field. Although the relation between the discursive and the non-discursive is disjunctive, the effect is formative. In Surveiller et punir, Foucault mentions briefly two other juridico-political matrices that are connected to the formation of knowledge: It is, perhaps, true that, in Greece, the mathematical sciences were born from the techniques of the measure [mesure], but towards the end of the Middle Ages, the practices of the investigation [enquete] at least partly contributed to the birth of the natural sciences. (1975: 227; cf. 1976: 78-80) In other, less well-known texts, Foucault takes up the matrices in more detail. This is one of the most important law-related aspects of Foucault’s work from the 1970s. One of the aims of his morphological project is to write, with the help of the matrices, a history of power. The matrices uniting social practices account for the formative effect of the non-discursive vis-a-vis the discursive. The epochal periodization of Foucault’s history can be structured as a succession of matrices derived from, for the most part, juridical practices: the time preceding Greek democracy and the trial (6preuve); the polis and the measure; the Middle Ages and the investigation; and, finally, the examination and the confession of modernity discussed in detail in Surveiller et punir and La volonté de savoir respectively. The individual practices, in turn, are responsible for the production of truth in power-knowledge relations. ’Law’, which the epochal variations account for the history of power-knowledge in Occidental civilization.

#### Their ‘demand’ upon the state is not a radical act of politics but a means of deferring responsibility, reinscribing our implication in regimes in violence

Veitch 2k7 – Scott Veitch, Professor of Jurisprudence, Professor of Jurisprudence, “Not in Our Name'? On Responsibility and Its Disavowal”, pg. 3, <http://sls.sagepub.com/content/16/2/281>)

Yet on another reading again, was there not also something else, something more unsettling about the banner’s sentiment? While, on the one hand, the mass bearing of witness to the terrible consequences of overwhelming violence – what would become the most intense, shock and awe, devastation available to over-zealous gun-folk – could undoubtedly be seen as part of an alternative lineage, one of important and determined dissent against government injustice, it implied, on the other, a disavowal of responsibility: this is not our doing, it is yours, and our consciences will not be sullied by your brutality and misjudgement. The uneasiness here derives from the fact that this seemed too easy. Somehow it failed to match up to the powers, this time not simply of the state, but of the complex reality of more or less formalized institutional settings within which people are and act – the complex divisions of labour in our intellectual, material, and mediated lives – which all together make the notion of a singular and simple moral disavowal of the state’s action so profoundly problematic. For in fact, was it not all these very same diversifying concepts and institutional practices that had helped neutralize outrage, and distance the sense of complicity during the killing years of sanctions against Iraq? Was it not, in other words, precisely the complexity of the situation – international politics, global finance, the minutiae of sanctions lists and UN resolutions, oil prices, media coverage, and so on – that made it easier to see no connections between ‘our’ moral thought, ‘our’ name, and dead Iraqis?If ‘our’ private consciences were not devastated, or even overly troubled, by the destruction caused by a legally enacted sanctions regime, it was because they could be absolved through the disaggregation of responsibility effected in the context of complex causes and distant effects, a significant element in whose make-up was their very legality. But if this was so, why would ‘our’ withdrawal of our name be any more relevant or efficacious now? Moreover, what grounds would there be for claiming an exception to what might appear otherwise to be some continuing implication in our government’s acts, through paying taxes or participation in voting? Wouldn’t this amount to no more than Stanley Milgram’s (1974) assessment of the ‘so-called intellectual resistance’ in occupied Europe during the Second World War: ‘merely indulgence in a consoling psychological mechanism’ (p. 10). And besides, was it not just conceivable that ‘our’ involvement was in fact heightened the more our democratically elected government strained its legal mandate? And if this were so, what else remained – remains – to be done beyond a statement of disavowal? ‘Not in Our Name’ exposes a fault-line running through contemporary politics in Britain and elsewhere. Understanding this will be the background for this article, but not its sole focus. Specifically from a jurisprudential angle I want to try to understand how legal categories and institutions operate in this realm, and to consider whether these categories and institutions in fact work as much to defer responsibility for harms suffered as they do to instantiate them; that is, to understand how they might operate to organize irresponsibility.

#### The executive will arbitrarily define words - means even if you don't find my analysis compelling military lawyers are much smarter than that.

Pollack, 13 -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13, mss]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to **remake the laws** of war by consciously violating them and then **creating new legal concepts to provide juridical cover** for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (**Obama is hardly a novice at** this game of **stretching the law to suit the convenience of**, shall we say, the **national interest**? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama **redefined the meaning** of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

Salter 85. M.G. Salter, lecturer in criminal law at the University of Birmingham, “The Rule of Power in the Language of Law,” The Liverpool Law Review Vol.VII(1) [1985] pg. 45

Through this linguistic patterning of administered time, the student is kept under the continual assessment of normalising judgments that examine, compare and contrast in order to accumulate a knowledge. Even the measurers are themselves externally measured, graded and assessed. Between staff, considerations of tactics determine aspects of discourse. Rarely is complete openness and honesty strategic.

Power also operates through legal discourse to assemble specific relations between people through individualising and collectivising them into pre-given categories. We can see this within the landlord tenant relationship. Even in their legal battles and formal agreements the relations between landlords and tenants are pre-determined through such notions as property, ownership and possessory rights. These shape the formation of intentions and the consequences of action. Legal battles for "student rights", "tenants rights" or those for blacks, consumers and women, take place upon a language already worked by power and for which the determination of what "tenancy'~ "rights" etc.~ means has already happened.

It is therefore inadequate to see these effects of power as mere rituals without penetrating deeper into the rules of operation that make possible and govern such elements of discourse. These rules set up an order of succession between different speakers' contributions, they determine who has the right to follow whom~ to interrupt, overrule~ qualify remarks~ re-interpret in "the light of broader policy considerations" and which positions may be taken upon what has been said by previous speakers and the status of statements made. Power also determines the effect of these modifications upon the subsequent authority of the overruled speaker.

Not only is the "who" prescribed in advance, but the "how" of these overrulings, qualifications, re-interpretations etc. If a statement by the Attorney-General over the use of the Emergency Powers legislation during violent strikes and unlawful picketing is subsequently to be qualified, this cannot be done in just any fashion. Power thus enforces what it has already established as the "proper" manner of any qualification. This has already pre-defined what specific element can~ in that particular qualifying discourse~ be related to what other~ if it is to count as a successful use of a particular ritualised tactic. Breach of these rules established under certain laws of co,possibility leads not to a successful "qualification" of the Attorney-General's earlier statement~ but to something else -perhaps an unintended public humiliation of a senior member of government.

In our academic discourse the power of the legal professions to impose a particular form and content for "their" qualification has already structured the occasion of any possible discourse. Both inside and outside academia power has already declared which qualified person, occupying which certified occupation for how many years can give an authoritative rendition of any particular law. (8) Also it pre-determines from what place this must be offered and according to which rituals of circumstance - accompanying gestures, style and body positions - to maintain the authority of the speaker. (9)

A law of compossibility has then laid down rules whose historical interplay determine why the appearance and disappearance of a particular discourse could not have occurred otherwise. The effects of their operation is to assemble and hold together not only a particular legal theme, but also a group of subjects whose status empowers them to speak and command an audience upon this theme. For example, the legality of bail conditions imposed upon pickets is not a theme for anyone at any time or place. Whether student, lecturer, defence lawyer, trade union leader or picket, mastery of these rules by the subject they create within the field they open up is a pre-condition for successful practical action within it. This is certainly true when the sites are the adversarial, and therefore highly tactical, atmospheres of court rooms, television debates or picket lines.

Such mastery and command does not make a person master of the rules themselves. It is still power that is heard when language speaks; they are no-onets personal possession or plaything. They are outcomes of chosen practices they themselves have made possible. It does not then appear to be a question of a "ruling class" which owns and therefore has certain power at its free disposal consciously to secure its rule over a dominated class. If anything the relationship is that power rules through establishing the meaning of particular social relationships. One has power like one has a cold, i.e. we are had by it and must make the best of it, develop resistance, fight the symptoms that aggravate us, discover, understand and use its effects to our advantage. No-one is exempt. The unfinished rituals power establishes generate our legal and ethical codes as well as the social relationships of their field of application. These relationships themselves create potentially violent tensions whose threat and reality support the widely felt need for such codes and law.

Power operates as much through the understanding as the speaking of legal discourse. Thus even the individual's understanding of law is made to "run on time" according to preset and administered rhythms. The intelligibility of laws governing, say, official secrets and labour relations, are constantly established through what is written and said in and about them. This constituted intelligibility is not in itself dependent upon administrative and labour practices. Instead, the dependency of its theme is articulated through language which makes constant but selective use of these relations. It does so in order to lay down a way in which these relations can be authoritatively addressed through it. As a lawyer I should be able to understand these laws better than those to whom they directly apply. Of course, it is a different matter to consider what this established intelligibility then means for administrators and trade unionists.

Power therefore delimits and holds together a select audience for particular legal discourses. The authoritative legal version which I may attempt to render is cornered by a particular profession and expressed upon non-legal and external practices such as journalism~ trade unionism, policing, law courts and prisons. From such constituted/constituting sources legal discourse has inscribed upon it~ and inserted within it~ an implicit philosophy of life, system of ethics and criteria for "sound judgement". These are not essentially or exclusively legal in character, but are bound up with the evolution of modernist societies and their struggles with unaccountable feudal and royal power. For example, the struggle for the rule of law has always been a power-struggle between competing potential law makers, for access to and control over law making machinery and then for the gaining of universal social recognition of the laws that have been made. There can also be a struggle within academia between and among students and lecturers over the weight given to purely academic matters, research, professional training etc., that occur against external government financial and relevancy criteria.

### Alt

Study the law

Agamben 05. Giorgio Agamben, famous philosopher, The State of Exception, pg. 63

In the Kafka essay, the enigmatic image of a law that is studied but no longer practiced corresponds, as a sort of remnant, to the unmasking of mythico-juridical violence effected by pure violence. There is, therefore, still a possible figure of law after its nexus with violence and power has been deposed, but it is a law that no longer has force or application, like the one in which the “new attorney,” leafing through “our old books,” buries himself in study, or like the one that Foucault may have had in mind when he spoke of a “new law” that has been freed from all disci- pline and all relation to sovereignty.

What can be the meaning of a law that survives its deposition in such a way? The difficulty Benjamin faces here corresponds to a problem that can be formulated (and it was effectively formulated for the first time in primitive Christianity and then later in the Marxian tradition) in these terms: What becomes of the law after its messianic fulfillment? (This is the controversy that opposes Paul to the Jews of his time.) And what becomes of the law in a society without classes? (This is precisely the de- bate between Vyshinsky and Pashukanis.) These are the questions that Benjamin seeks to answer with his reading of the “new attorney.” Obvi- ously, it is not a question here of a transitional phase that never achieves its end, nor of a process of infinite deconstruction that, in maintain- ing the law in a spectral life, can no longer get to the bottom of it. The decisive point here is that the law—no longer practiced, but studied— is not justice, but only the gate that leads to it. What opens a passage toward justice is not the erasure of law, but its deactivation and inactivity [inoperosità]—that is, another use of the law. This is precisely what the force-of-law (whichkeepsthelawworking[inopera]beyonditsformal suspension) seeks to prevent. Kafka’s characters—and this is why they interest us—have to do with this spectral figure of the law in the state of exception; they seek, each one following his or her own strategy, to “study” and deactivate it, to “play” with it.

One day humanity will play with law just as children play with dis- used objects, not in order to restore them to their canonical use but to free them from it for good. What is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it. And use, which has been contaminated by law, must also be freed from its own value. This liberation is the task of study, or of play. And this studious play is the passage that allows us to arrive at that justice that one of Benjamin’s posthumous fragments defines as a state of the world in which the world appears as a good that absolutely cannot be appropriated or made juridical (Benjamin 1992, 41).

### A2: Strategic Reversability

#### Sounds like plain old liberalism to me.

Knox ‘12

Robert, PhD Candidate, London School of Economics and Political Science. !is paper was presented at the Fourth Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law and the Towards a Radical International Law workshop, “Strategy and Tactics,”

this warning is of great relevance to the type of ‘strategic’ interventions advocated by the authors. there are serious perils involved in making any intervention in liberal-legalist terms for critical scholars. the first is that – as per their own analysis – liberal legalism is not a neutral ground, but one which is likely to favour certain claims and positions. Consequently, it will be incredibly difficult to win the argument. Moreover, **even if** the argument is won, the victory is likely to be a very particular one – inasmuch as **it will foreclose any wider consideration of the structural or systemic causes** of any particular ‘violation’ of the law. All of these issues are to some degree considered by the authors.44 However, given the way in which ‘strategy’ is understood, the effects of these issues are generally confined to the immediate, conjunctural context. As such, the emphasis was placed upon the way that the language of liberal legalism blocked effective action and criticism of the war.45 Much less consideration is placed on the way in which advancing such argument impacts upon the long term effectiveness of achieving the strategic goals outlined above. Here, the problems become even more widespread. Choosing to couch the intervention in liberal legal terms ultimately reinforces the structure of liberal legalism, rendering it more difficult to transcend these arguments.46 In the best case scenario that such an intervention is victorious, this victory would precisely seem to underscore the liberal position on international law. Given that international law is in fact bound up with processes of exploitation and domination on a global scale, such a victory contributes to the legitimation of this system, **making it very difficult to argue against its logic.** this process takes place in three ways. Firstly, by intervening in the debate on its own terms, critical scholars reinforce those very terms, as their political goals are incorporated into it.47 It can then be argued the law is in fact neutral, because it is able to encompass such a wide variety of viewpoints. Secondly, in discarding their critical tools in order to make a public intervention, these scholars abandon their structural critique **at the very moment when they should hold to it most strongly**. that is to say, that at the point where there is actually a space to publicise their position, they choose instead to cleave to liberal legalism. thus, even if, in the ‘purely academic’ context, they continue to adhere to a ‘critical’ position, in public political terms, they advocate liberal legalism. Finally, from a purely ‘personal’ standpoint, in advocating such a position, they undercut their ability to articulate a critique in the future, precisely because they will be contradicting a position that they have already taken. the second point becomes increasingly problematic absent a guide for when it is that liberal legalism should be used and when it should not. Although the ‘embrace’ of liberal legalism is always described as ‘temporary’ or ‘strategic’**,** there is actually very little discussion about the specific conditions in which it is prudent to adopt the language of liberal legalism. It is simply noted at various points that this will be determined by the ‘context’.48 As is often the case, the term ‘context’ is invoked49 without specifying precisely which contexts are those that would necessitate intervening in liberal legal terms. Traditionally, such a context would be provided by a strategic understanding. that is to say, that the specific tactics to be undertaken in a given conjunctural engagement would be understood by reference to the larger structural aim. But here, there are simply no considerations of this. It seems likely therefore, that again context is understood in purely **tactical terms.** Martti Koskenniemi can be seen as representative in this respect, when he argued: What works as a professional argument depends on the circumstances. I like to think of the choice lawyers are faced with as being not one of method (in the sense of external, determinate guidelines about legal certainty) but of language or, perhaps better, of style. the various styles – including the styles of ‘academic theory’ and ‘professional practice’ – are neither derived from nor stand in determinate hierarchical relationships to each other. the final arbiter of what works is nothing other than the context (academic or professional) in which one argues.50 On this reading, the ‘context’ in which prudence operates seems to the immediate circumstances in which an intervention takes place. this would be consistent with the idea, expressed by the authors, that the ‘strategic’ context for adopting liberal legalism was that the debate was conducted in these terms. But the problem with this understanding is surely evident. As critical scholars have shown time and time again, the contemporary world is one that is deeply saturated with, and partly constituted by, **juridical relations**.51 Accordingly, there are really very few contexts (indeed perhaps none) in which political debate is not conducted in juridical terms. A brief perusal of world events would bear this out.52 the logical conclusion of this would seem to be that in terms of abstract, immediate effectiveness, the ‘context’ of public debate will almost always call for an intervention that is couched in liberal legalist terms. This raises a final vital question about what exactly distinguishes critical scholars from liberal scholars. If the above analysis holds true, then the ‘strategic’ interventions of critical scholars in legal and political debates will almost always take the form of arguing these debates in their own terms, and simply picking the ‘left’ side. thus, whilst their academic and theoretical writings and interventions may (or may not) retain the basic critical tools, the public political interventions will basically be ‘liberal’. The question then becomes, in what sense can we really characterise such interventions (and indeed such scholars) as ‘critical’? The practical consequence of understanding ‘strategy’ in essentially tactical terms seems to mean always struggling within the coordinates of the existing order. Given the exclusion of strategic concerns as they have been traditionally understood, **there is no practical account for how these coordinates will ever be transcended** (or how the debate will be reconfigured). As such, **we have a group of people struggling within liberalism, on liberal terms,** who may or may not also have some ‘critical’ understandings which are never actualised in public interventions. We might ask then, apart from ‘good intentions’ (although liberals presumably have these as well) what differentiates these scholars from liberals? Because of course liberals too can sincerely believe in political causes that are ‘of the left’. It seems therefore, that just as – in practical terms – strategic essentialism collapses into essentialism, so too does ‘strategic’ liberal legalism collapse into plain old liberal legalism.53

### 1nr

### Case

The critique is selectively critical- there are objective threats in the Muslim world that must be confronted regardless of philosophical pandering

Ned Vankevich (Associate Professor of Communications at Trinity Western University in Langley, British Columbia, Canada) Confronting the Uncomfortable: Postmodernity and the Quandary of Evil Rhetoric & Public Affairs 6.3 (2003) pg. 554-566

In asking these questions I do not mean to endorse the polarizing, demonizing, and bellicostic rhetoric that too often licenses unjust acts of repressive destruction toward the "hated Other." As Eduardo Galeano reminds us, "in the battle between good and evil it is always the people that get killed." 22 Rather, the issue I address is how do we best stop such mutually destructive rhetoric and the actions it produces? The gruesome body parts strewn around the World Trade Center and the mutilated corpses of Israeli children vividly remind us that the actions of suicide bombers need to be addressed. We cannot selectively dismiss the barbarisms of America's enemies. One-sided critiques that only focus on or blame the policies of the U.S. government conveniently elude the more difficult and radical problems that need to be addressed. Bin Laden, Al Qaeda, the Salafists, and other militant Muslim groups are a credible threat to a number of countries, both Western and non-Western. 23 In fact Muslim-on-Muslim violence far surpasses that of the so-called militant Muslim versus Western civilization violence. 24 In light of this, I submit that we need to move beyond nullifying rhetorics that only critique and deconstruct one side of a complex multisided issue, that reflects the tendency to blame America and its leaders for militant Islam without considering the complex gestalt of geopolitics and indigenous cultural history. We need new forms of prudential rhetoric that offer viable solutions to the grave sociopolitical problems that beset us.

This turns the aff – we can never understand the violence they criticize

Your authors are ivory tower apologists who only think non Muslims can be racist against Muslims and not the other way around- reject their career centered calculations

Dr. Koenraad Elst (Belgium-based writer on comparative religion, Indian history, and Hindu-Muslim relations, phd philosophy from Catholic University of Leuven) Afterword: The Rushdie Affair's Legacy. Accessed November 8, 2011 http://koenraadelst.bharatvani.org/articles/misc/rushdie.html

Who Are the Censors? Governments. It need not be Muslims who put pressure to prevent criticism of Islam or punish its authors; in a number of instances, Western governments have attempted to thwart, or at least refused to support, criticism of Islam. The British government banned a demonstration in support of Salman Rushdie on the thousandth day of his underground life, fearing that this would endanger the negotiations to release Terry Waite, a British hostage in Lebanon.[73] Lufthansa, the German airline, refused to let Rushdie on to one of its flights; as recently as March 2002, Air Canada banned Rushdie from its flights for six months.[74] A public reading from The Satanic Versesin a Muslim-dominated suburb of Brussels was prohibited; when questioned, the City Council and the Home Ministry held one another responsible for issuing the ban. When the European Parliament invited Bangladeshi author Taslima Nasrin to come and receive the Sakharov Prize in Strasbourg, the French government initially wanted to grant her a visa for a single day, pleading an inability to guarantee her safety for any longer period than this utmost minimum.[75] Despite the American tradition of tolerating even the most repugnant speech, the State Department in mid-1997 publicly demanded the punishment of an Israeli woman who had distributed a poster depicting the Prophet Muhammad as a pig. And an Israeli judge did its bidding, sentencing her to two years' imprisonment. Intellectuals. On several occasions, university authorities in Belgium have cancelled permission for lectures and debates expected to be critical of Islam. A Brussels weekly published a cover story titled "Will the Belgium of Our Children Be Islamic?" that was filled with sober references to human rights violations against Christians in Turkey and Egypt, plus an excerpt from a speech by a Belgium-based imam: "Soon we will take power in this country. Those who criticize us now, will regret it. They will have to serve us. Prepare, for the hour is near."[76] In response, the Belgian Human Rights League filed a suit on the basis of the anti-racism law—and not against the imam but against the journalist. The palace contacted the editor to protest the issue's cover, which showed King Albert II wearing an Arab head dress. The editor had advertisements of the issue removed; soon after, he himself was sacked.[77] Pressure is sometimes applied in private. A well-known Belgian psychologist, Herman Somers, published a book, A Different Muhammad, that contains a detailed analysis of the words and acts of the prophet and concludes that his prophethood is a typical case of paranoid delusion nourished with sensorial hallucinations.[78] The psychiatrists and specialists on Islam who helped Somers do his research, it bears noting, did so only on condition of strict anonymity. Somers also wrote best-selling studies of Jesus, Biblical prophets, the Jesuit order, and Jehovah's Witnesses, all of which were widely discussed in the media. This time, however, his book met with a deafening silence. Reviewers looked the other way, scholars of religion strictly avoided mention of the book, and even the publisher failed to publicize the book. It sold poorly and quickly became unavailable. Without any law being violated or any ban issued, Somers' thesis was effectively prevented from entering the public discourse. These cases contain not a hint of Islamist threat nor government pressure. In some cases, Western intellectuals who wish to stand by Muslim-born critics of Islam simply can't get a grip on the problem. In November 2000, a theater in Rotterdam was forced to withdraw from its program a play called Aisha, written by Dutch playwright Gerrit Timmers but manned entirely by Moroccan-born actors. After persuasive interventions by some imams, the actors pleaded that they couldn't be a party to an enactment of scenes from the life of the Prophet and of his favourite young wife 'A'isha.[79] There was some commotion about the matter (even in the Dutch parliament), with the general conclusion being that non-Muslims just have no clue to Islam and the Muslim community, and that freethinking Muslims would just have to sort matters out for themselves. Political authorities at least have the excuse that they have other concerns (financial, diplomatic, security) beside the cause of intellectual freedom. Intellectuals, however, have no such excuses. Nor can they point to personal danger; there have been practically no attempts on the lives of Western critics of Islam, the most conspicuous exception so far being Steven Emerson, who has indeed been threatened. Muslims dislike it when a non-Muslim articulates his non-acceptance of Islamic doctrine, but they find this much less shocking than when a born-Muslim does the same thing. After all, a non-Muslim by definition does not believe in Muhammad as God's messenger, so theories about Muhammad being a fraud and the like merely make explicit the skepticism common to nearly all non-Muslims. So, fear of physical violence probably does not account for the silence of Western intellectuals. Rather, it is a matter of careerist calculations. Criticism of Islam is easily associated with a retrograde Christian fanaticism or anti-immigrant xenophobia—and being tagged with such labels is disastrous publicity, whether or not they accurately apply.

#### The detention-drones tradeoff is empirically true

Goldsmith 12 – Professor of Law @ Harvard

(Jack, “Proxy Detention in Somalia, and the Detention-Drone Tradeoff,” June, http://www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/)

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation:¶ There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries.¶ The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.¶ The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

### CP

Scare quotes are a tactic of violence against the self- writers fear backlash from controversial terms so they encase themselves in scare quotes to obscure their true meaning

Greil Marcus (cultural critic extraordinaire and the co-editor, with Werner Sollors, of our mammoth A New Literary History of America) Notes on the making of A New Literary History of America - Part 1 - "Scare quotes are the enemy" 10 MAY 2010 http://harvardpress.typepad.com/hup\_publicity/2010/05/greil-marcus-notes-on-the-making-of-a-new-literary-history-of-america-part-1.html

Part 1 - "Scare quotes are the enemy" I’m going to talk about questions of narrative in a book I was lucky to co-edit with Werner Sollors—A New Literary History of America, published last year by Harvard University Press. And I’m going to start by talking about narrative and scare quotes. The idea was to create a story made of pieces, of fragments—to tell the story of a country finding itself, creating itself, and ever after arguing over the meaning of that creation, over whether it was true or false, finished or unfinished, open or closed. Each essay—each 2,500-word piece in a chronological scheme of 220—had to clear and stake out its own ground, then build a house, identify its occupants, and then open the door—to proceed to tell the story of why and how what those people did was distinctive, why and how it was representative, and make room in that house both for the writer and the reader—and, if the implicit harmony the book was betting on was real, how that single house could stand for the country itself and all the twists and turns of its story. Whether it was the slow fuse of the first appearance of the word “America” on a map, in 1507; whether it was the Declaration of Independence as written by Jefferson or the declaration of independence as written by Chuck Berry under the name “Roll Over Beethoven”; whether it was an imaginary meeting between Lily Bart of Edith Wharton’s The House of Mirth and Carrie Meeber of Theodore Dreiser’s Sister Carrie;whether it was the serialization of Harriet Beecher Stowe’s Uncle Tom’s Cabin in 1851 or Frederick Douglass’s address to the wonderfully, today impossibly-named Rochester Ladies’ Anti-Slavery Sewing Society a year after that—somehow I can’t help thinking of the meeting of the Ladies Garden Club at the beginning of The Manchurian Candidate—in every case, the writer had to open that door wide enough that all of the country could pass through. To do that, you have to find the right words, and place your bets on them. And the enemy of that goal, we found, was scare quotes. When we looked at all the essays together, we found a narrative disease. Somehow, through the writing of each piece, its editing by the member of the editorial board who had assigned it and reeled it in, then editing by a heroic copy editor, then by Werner, or myself, and finally by both of us, we found piece after piece littered with little typographical markings that like insect tracks were bleeding the life out of description, argument, dramatization. It was like a horror movie, when the demons that have previously appeared only in dreams and glimpses by a child that her parents ignored are suddenly everywhere, everywhere you look, and you can’t escape. Scare quotes. You know how it works in lectures. The slow, sententious double double, accompanied by an expression of as we all know disdain—a way of saying, none of us are fooled—unlike those fools, not gathered here with us, who are fooled. Cooler still—the single double. In a sentence, any word can be in doubt, except maybe verbs like “is” or “are”—but really, it’s like trying to tell a story according to Mary McCarthy’s judgment on Lillian Hellman: “Every word she writes is a lie, including ‘and’ and ‘the.’” Consider: “Fourscore and seven years ago, our “fathers”—with half the population excluded from the start—“brought forth”—with the dubious, always questionable assumption of “progress”—itself a value judgment about the meaning of history, which opens up the inherently dubious notion of “history” itself—“a “new” “nation”—a double double scare quote, with the claim of “new” at once instantly erasing the presence of all indigenous peoples and affirming the utterly questionable notion that anything can be qualitatively or authentically “new,” which again calls the very notion of “history” into question—and the word “nation” presupposing a commonality that may be nothing more than a kind of conspiracy of consent, a conglomeration of power meant to enrich the few and marginalize almost everyone else—“conceived”—privileging the idea that anything so questionable as a “nation” could be made up, as if out of nothing—“in “Liberty”— Well, that’s just too much. We’re going to have to stop right here. We can’t even begin to get into “dedicated to the proposition”—we’ll let that pass—that“all”—“all”? Really? “men”—again—“are “created”—by whom? By what? For what purpose? To what end?—“equal.” Yes. Stop right here. Scare quotes kill narrative. They kill story-telling. And it’s not a question of parsing, examining, analyzing, laying bare sacred texts. They are a writer’s assault on his or her own words. They may seem to be a screen in which a writer pretends that he or she understands the inherently questionable nature of discourse itself—“when I use a word, it means just what I choose it to mean”—but in truth it’s a matter of a writer protecting himself or herself from whatever it is he or she is writing—protecting himself or herself from his or her peers, from his or her audience: You can’t believe I really meant that, can you? See the quotes? I’m not fooled—not even by myself! In 1933, in “The Notion of Expenditure,” Georges Bataille wrote of “the shame of a generation whose rebels are afraid of the noise of their own words,” and that’s part of the drama—the anti-drama—scare quotes are meant to enact. I used to think the use of scare quotes was a matter of writers being too lazy to find the right word, to find the words that would say precisely what the writer meant. But editing this book made it clear that the real question is fear—people afraid of their own words, of opening themselves up to attack. So we went after scare quotes with the equivalent of Raid—that spray that carried the slogan, coined by the beat poet Bob Kaufman in his day job in advertising—“Raid Kills Bugs Dead.” And we found that in almost every case, when the scare quotes came off, what remained was what the writer was actually trying to say. And when we went to the writers, to ask for their consent—because no changes were made without the writer’s agreement—they said, over and over, yes. It was as if we were disarming them of a weapon they had aimed at themselves.

#### 100% solvency take out- contextually true, people will misunderstand the use of quotes in the plan and come to the OPPOSITE CONCLUSION. This link turns their deployment of the critique of the status quo.

Raymond W. Gibbs (author) 1994- The poetics of mind: figurative thought, language, and understanding [Google Books]

Just as people speak ironically in conversation with specific addressees in mind. they may also make specific ironic comments in written discourse that are intended to injure particular individuals or these individuals’ ideas. Academic writing, although generally seen as containing few instances of irony and humor, actually contains many examples where writers express certain beliefs by ironically disparaging some other writer(e). Most scholars comment on the tone, or tones, of voice associated with verbal irony (e.g., nasalization). Yet any writ- ten text can be read with a whole range of possible tones suggesting irony. Devices that signal the possibility of irony in print and academic writing involve the rich use of typographical indices. such as quotation marks, footnotes, italics, and special titles and headings. and heavy-handed disclaimers like [rid and l?!I (Myers, 1990). The setting of words in "scare quotes." for example, is common device to indicate that the quoting writer does not accept the words. One debate on irony. somewhat ironically, gives a good example of this. Sperber (1984: 134) quotes ironically some key terms from Clark and Gerrig (1984) when he asks the following rhetorical question: If one says What lovely weather! when the weather is miserable, is it usually the use that the speaker is making fun of some "injudicious person" and of some “uncomprehending audience’? Sperber dearly intends readers to recognize his belief that the terms injudicious person and uncomprehending audience carry little theoretical weight. None of these devices are exclusive clues to irony, but all can be used to help signal a writer's ironic intentions. A re— lated way for writers to convey their ironic intentions is throuﬂi quotation. The ironic writer intends readers to recog- nize an intention in the use of these quoted words different from the one meant originally. This strategy is particularly effective in the rhetorical situation of academic controversies. because it relies on readers‘ assumptions about the intentions of writers and the appropriate forms of texts (Myers, 1990). One academic debate between several linguists and computer scientists illustrates the use of quotation in conveying irony (ibid.). This debate started with Dresher and Hornstein’s (1976) challenge to the claims of artificial intelligence (Al) in the 1970s to offer a model of language that was a reasonable alternative to the traditional view of generative grammar as suggested by linguistic theory. Schank and Wllenaky (1977) responded to Dresher and Hornstein by defending their own model of natural language processing based on conceptual dependency (or CD. I system of semantic primitives) and by reasserting their support for a computational approach to linguistic theory. Readers generally expect responses in academic debates to refute specific claims made in the original attack, but look at how Schank and Wilenslry responded to one of Dresher and Hornstein’s criticisms. A large part of the remainder of the critique addresses the concern that “there is no principled way to expand any CD diagram into a more complex CD diagram. Each step requires new information to be brought in.” (p. 369) Interestingly enough, this is precisely the point that we are trying to make. (p. 143) Instead of arguing with the original criticism, Schank and Wilensky took Dresher and Hornatein's assertion as support for their own position Certainly this is not what Dresher and Hornatein intended originally when they Schanlt and Wilensky for not providing a principled way to expand CD diagrams. Somewhat ironically, Dresher and Hornatein's own words have been used against them to make a point that would not have been as forceful had Schank and Wilensky protested directly about Dresher and l-lornstein'a misunderstanding.

. The language used in relation to an issue is as important as the content of the issue itself – studying the language surrounding a policy is key to effective policy advocacy

Bales, President of the FrameWorks Institute, 2001

(Susan Nall, “A conversation with Susan Nall Bales,” The Evaluation Exchange Volume VII, No. 1, Winter, http://gseweb.harvard.edu/~hfrp/eval/issue16/bales.html)

Well, framing is a concept that runs through the cognitive, social and behavioral sciences. For the work that my colleagues and I do, it allows us to bridge the difference among these various disciplines that study communications and policy preference, but have done so in isolation from each other. So, the great thing about the concept of framing is that, whether you're looking through the literature of anthropology, psychology, political science, linguistics or sociology, people have studied framing, and so it's a core concept. Essentially, framing has to do with the way an issue is composed: the messengers, visuals and metaphors that are used to convey an idea. The cues that are given to people by the framing direct their reasoning about issues. Given this, it is vital that advocates understand the composition of the frame and what kinds of meta-messages or world views it calls into play. What we have tried to do in our work is to break down that frame; to deconstruct it and show people that, when you're talking about making news, you have a number of different variables you can manipulate. It's not just the message, it's the visual, metaphors and colorful language that are used. You can tell a story in many different ways and the more you know about which elements help and hurt your cause, the better you will be at telling a story about social policy. Strategic frame analysis is really something that has been invented in the last five years by a group of communications scholars and practitioners getting together to compare the way that they look at communications. I would cite as part of that team, Frank Gilliam, with the Center for Communications and Community at UCLA; Meg Bostrum, a political strategist and public opinion expert, linguists George Lakoff at UC/Berkeley and Pamela Morgan, and Joseph Grady and Axel Aubrun, co-founders of Cultural Logic. In my own work, as someone who's run communications campaigns for twenty-five years, I've tried to go back and develop a conversation between the various academic disciplines that ask how people think about social issues. I've added a more applied question, however: how can we change the communication in such a way that people will take another look at social problems? The result is strategic frame analysis, which is based in both theory and practice and attempts to continue that dialogue.

We specifically turn the logic this card engages in –

Scare quotes can cause the audience to come to the opposite of the intended conclusion

Raymond W. Gibbs (author) 1994- The poetics of mind: figurative thought, language, and understanding [Google Books]

Just as people speak ironically in conversation with specific addressees in mind. they may also make specific ironic comments in written discourse that are intended to injure particular individuals or these individuals’ ideas. Academic writing, although generally seen as containing few instances of irony and humor, actually contains many examples where writers express certain beliefs by ironically disparaging some other writer(e). Most scholars comment on the tone, or tones, of voice associated with verbal irony (e.g., nasalization). Yet any writ- ten text can be read with a whole range of possible tones suggesting irony. Devices that signal the possibility of irony in print and academic writing involve the rich use of typographical indices. such as quotation marks, footnotes, italics, and special titles and headings. and heavy-handed disclaimers like [rid and l?!I (Myers, 1990). The setting of words in "scare quotes." for example, is common device to indicate that the quoting writer does not accept the words. One debate on irony. somewhat ironically, gives a good example of this. Sperber (1984: 134) quotes ironically some key terms from Clark and Gerrig (1984) when he asks the following rhetorical question: If one says What lovely weather! when the weather is miserable, is it usually the use that the speaker is making fun of some "injudicious person" and of some “uncomprehending audience’? Sperber dearly intends readers to recognize his belief that the terms injudicious person and uncomprehending audience carry little theoretical weight. None of these devices are exclusive clues to irony, but all can be used to help signal a writer's ironic intentions. A re— lated way for writers to convey their ironic intentions is throuﬂi quotation. The ironic writer intends readers to recog- nize an intention in the use of these quoted words different from the one meant originally. This strategy is particularly effective in the rhetorical situation of academic controversies. because it relies on readers‘ assumptions about the intentions of writers and the appropriate forms of texts (Myers, 1990). One academic debate between several linguists and computer scientists illustrates the use of quotation in conveying irony (ibid.). This debate started with Dresher and Hornstein’s (1976) challenge to the claims of artificial intelligence (Al) in the 1970s to offer a model of language that was a reasonable alternative to the traditional view of generative grammar as suggested by linguistic theory. Schank and Wllenaky (1977) responded to Dresher and Hornstein by defending their own model of natural language processing based on conceptual dependency (or CD. I system of semantic primitives) and by reasserting their support for a computational approach to linguistic theory. Readers generally expect responses in academic debates to refute specific claims made in the original attack, but look at how Schank and Wilenslry responded to one of Dresher and Hornstein’s criticisms. A large part of the remainder of the critique addresses the concern that “there is no principled way to expand any CD diagram into a more complex CD diagram. Each step requires new information to be brought in.” (p. 369) Interestingly enough, this is precisely the point that we are trying to make. (p. 143) Instead of arguing with the original criticism, Schank and Wilensky took Dresher and Hornatein's assertion as support for their own position Certainly this is not what Dresher and Hornatein intended originally when they Schanlt and Wilensky for not providing a principled way to expand CD diagrams. Somewhat ironically, Dresher and Hornatein's own words have been used against them to make a point that would not have been as forceful had Schank and Wilensky protested directly about Dresher and l-lornstein'a misunderstanding.