## 1NC

### Anthro

#### Silence on the human exploitative gaze towards non-human animals ensures that anthropocentrism continues

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We come to critical pedagogy with a background in environmental thought and education. Of primary concern and interest to us are relationships among humans and the “more-than-human world” (Abram, 1996), the ways in which those relationships are constituted and prescribed in mo- dern industrial society, and the implications and consequences of those constructs. As a number of scholars and nature advocates have argued, the many manifestations of the current environmental crisis (e.g., species extinction, toxic contamination, ozone depletion, topsoil depletion, climate change, acid rain, deforestation) reflect predominant Western concepts of nature, nature cast as mindless matter, a mere resource to be exploited for human gain (Berman, 1981; Evernden, 1985; Merchant, 1980). An ability to respond adequately to the situation therefore rests, at least in part, on a willingness to critique prevailing discourses about nature and to consider alternative representations (Cronon, 1996; Evernden, 1992; Hayles, 1995). To this end, poststructuralist analysis has been and will continue to be invaluable.¶ It would be an all-too-common mistake to construe the task at hand as one of interest only to environmentalists. We believe, rather, that dis- rupting the social scripts that structure and legitimize the human dom- ination of nonhuman nature is fundamental not only to dealing with environmental issues, but also to examining and challenging oppressive social arrangements. The exploitation of nature is not separate from the exploitation of human groups. Ecofeminists and activists for environ- mental justice have shown that forms of domination are often intimately connected and mutually reinforcing (Bullard, 1993; Gaard, 1997; Lahar, 1993; Sturgeon, 1997). Thus, if critical educators wish to resist various oppressions, part of their project must entail calling into question, among other things, the instrumental exploitive gaze through which we humans distance ourselves from the rest of nature (Carlson, 1995).¶ For this reason, the various movements against oppression need to be aware of and supportive of each other. In critical pedagogy, however, the exploration of questions of race, gender, class, and sexuality has proceeded so far with little acknowledgement of the systemic links between human oppressions and the domination of nature. The more-than-human world and human relationships to it have been ignored, as if the suffering and exploitation of other beings and the global ecological crisis were somehow irrelevant. Despite the call for attention to voices historically absent from traditional canons and narratives (Sadovnik, 1995, p. 316), nonhuman beings are shrouded in silence. This silence characterizes even the work of writers who call for a rethinking of all culturally positioned essentialisms.¶ Like other educators influenced by poststructuralism, we agree that there is a need to scrutinize the language we use, the meanings we deploy, and the epistemological frameworks of past eras (Luke & Luke, 1995, p. 378). To treat social categories as stable and unchanging is to reproduce the prevailing relations of power (Britzman et al., 1991, p. 89). What would it mean, then, for critical pedagogy to extend this investigation and critique to include taken-for-granted understandings of “human,” “animal,” and “nature”?¶ This question is difficult to raise precisely because these understandings are taken for granted. The anthropocentric bias in critical pedagogy man- ifests itself in silence and in the asides of texts. Since it is not a topic of discussion, it can be difficult to situate a critique of it. Following feminist analyses, we find that examples of anthropocentrism, like examples of gender symbolization, occur “in those places where speakers reveal the assumptions they think they do not need to defend, beliefs they expect to share with their audiences” (Harding, 1986, p. 112).¶ Take, for example, Freire’s (1990) statements about the differences between “Man” and animals. To set up his discussion of praxis and the importance of “naming” the world, he outlines what he assumes to be shared, commonsensical beliefs about humans and other animals. He defines the boundaries of human membership according to a sharp, hier- archical dichotomy that establishes human superiority. Humans alone, he reminds us, are aware and self-conscious beings who can act to fulfill the objectives they set for themselves. Humans alone are able to infuse the world with their creative presence, to overcome situations that limit them, and thus to demonstrate a “decisive attitude towards the world” (p. 90).¶ Freire (1990, pp. 87–91) represents other animals in terms of their lack of such traits. They are doomed to passively accept the given, their lives “totally determined” because their decisions belong not to themselves but to their species. Thus whereas humans inhabit a “world” which they create and transform and from which they can separate themselves, for animals there is only habitat, a mere physical space to which they are “organically bound.”¶ To accept Freire’s assumptions is to believe that humans are animals only in a nominal sense. We are different not in degree but in kind, and though we might recognize that other animals have distinct qualities, we as humans are somehow more unique. We have the edge over other crea- tures because we are able to rise above monotonous, species-determined biological existence. Change in the service of human freedom is seen to be our primary agenda. Humans are thus cast as active agents whose very essence is to transform the world – as if somehow acceptance, appreciation, wonder, and reverence were beyond the pale.¶ This discursive frame of reference is characteristic of critical pedagogy. The human/animal opposition upon which it rests is taken for granted, its cultural and historical specificity not acknowledged. And therein lies the problem. Like other social constructions, this one derives its persuasiveness from its “seeming facticity and from the deep investments individuals and communities have in setting themselves off from others” (Britzman et al., 1991, p. 91). This becomes the normal way of seeing the world, and like other discourses of normalcy, it limits possibilities of taking up and con- fronting inequities (see Britzman, 1995). The primacy of the human enter- prise is simply not questioned.¶ Precisely how an anthropocentric pedagogy might exacerbate the en- vironmental crisis has not received much consideration in the literature of critical pedagogy, especially in North America. Although there may be passing reference to planetary destruction, there is seldom mention of the relationship between education and the domination of nature, let alone any sustained exploration of the links between the domination of nature and other social injustices. Concerns about the nonhuman are relegated to environmental education. And since environmental education, in turn, remains peripheral to the core curriculum (A. Gough, 1997; Russell, Bell, & Fawcett, 2000), anthropocentrism passes unchallenged.1¶ p. 190-192

#### Their focus on liberation requires re-affirmation of a distinction between “human” and “animal” – re-entrenches specieism

Kim, UC Irvine political science professor, 2009

(Claire, “Slaying the Beast:  Reflections on Race, Culture, and Species”, http://aapf.org/wp-content/uploads/2009/05/kalfou.pdf)

KIM ‘9 - UC Irvine political science professor (Claire, “Slaying the Beast: Reflections on Race, Culture, and Species”, http://aapf.org/wp-content/uploads/2009/05/kalfou.pdf)

Dyson gives a perfunctory nod to the animal question and then turns to focus on the issue of true moral significance and urgency: racism. It is as if defending the humanity of Black people requires reaffirming the animality of animals, their categorical subordination. Similarly, feminist Sandra Kobin asks why Vick was treated more harshly than professional athletes who beat their wives and girlfriends, writing: “Beat a woman? Play on; Beat a dog? You’re gone” (Kobin 2007). Kobin does not critique dog fighting for its promotion of masculinist violence or show any appreciation of the fact that women and animals are both victims of male violence. Instead, she bristles at the idea that dogs might be valued more than women and insists that women are the victims that really matter. What is troubling about the racial persecution narrative advanced by Vick’s defenders is not that it is wrong per se but that it subsumes, deflects, and ultimately denies **the other moral question being raised, the animal question**. Its response to the interdependency of Blackness and animalness in the white imagination is not to deconstruct both notions but rather to vigorously affirm that Blacks are human and therefore deserving of better treatment than animals. It is a narrative that embraces an ideology of human supremacy in the name of fighting white supremacy and sees no contradiction in this position. It is as if Dyson and Kobin are saying that people of color and women have the most at stake in reinscribing the impassable line between humans and animals, whereas these groups may in fact have the most at stake in its erasure. Most humans are unaccustomed to thinking about how their politics reinscribe notions of human superiority over all other species, but the notion of species-free space is as improbable as that of race-free space. **Categories of difference** **saturate our thinking, our discourse, our experience, and our actions**.

#### Anthropocentrism makes everything extinct

Gottlieb 94 — Roger S. Gottlieb, Professor of Humanities at Worcester Polytechnic Institute, holds a Ph.D. in Philosophy from Brandeis University, 1994 (“Ethics and Trauma: Levinas, Feminism, and Deep Ecology,” *Crosscurrents: A Journal of Religion and Intellectual Life*, Summer, Available Online at http://www.crosscurrents.org/feministecology.htm, Accessed 07-26-2011)

Here I will at least begin in agreement with Levinas. As he rejects an ethics proceeding on the basis of self-interest, so I believe the anthropocentric perspectives of conservation or liberal environmentalism cannot take us far enough. Our relations with nonhuman nature are poisoned and not just because we have set up feedback loops that already lead to mass starvations, skyrocketing environmental disease rates, and devastation of natural resources. The problem with ecocide is not just that it hurts human beings. Our uncaring violence also violates the very ground of our being, our natural body, our home. Such violence is done not simply to the other – as if the rainforest, the river, the atmosphere, the species made extinct are totally different from ourselves. Rather, we have crucified ourselves-in-relation-to-the-other, fracturing a mode of being in which self and other can no more be conceived as fully in isolation from each other than can a mother and a nursing child. We are that child, and nonhuman nature is that mother. If this image seems too maudlin, let us remember that other lactating women can feed an infant, but we have only one earth mother. What moral stance will be shaped by our personal sense that we are poisoning ourselves, our environment, and so many kindred spirits of the air, water, and forests? To begin, we may see this tragic situation as setting the limits to Levinas's perspective. The other which is nonhuman nature is not simply known by a "trace," nor is it something of which all knowledge is necessarily instrumental. This other is inside us as well as outside us. We prove it with every breath we take, every bit of food we eat, every glass of water we drink. We do not have to find shadowy traces on or in the faces of trees or lakes, topsoil or air: we are made from them. Levinas denies this sense of connection with nature. Our "natural" side represents for him a threat of simple consumption or use of the other, a spontaneous response which must be obliterated by the power of ethics in general (and, for him in particular, Jewish religious law(23) ). A "natural" response lacks discipline; without the capacity to heed the call of the other, unable to sublate the self's egoism. Worship of nature would ultimately result in an "everything-is-permitted" mentality, a close relative of Nazism itself. For Levinas, to think of people as "natural" beings is to assimilate them to a totality, a category or species which makes no room for the kind of individuality required by ethics.(24) He refers to the "elemental" or the "there is" as unmanaged, unaltered, "natural" conditions or forces that are essentially alien to the categories and conditions of moral life.(25) One can only lament that Levinas has read nature -- as to some extent (despite his intentions) he has read selfhood -- through the lens of masculine culture. It is precisely our sense of belonging to nature as system, as interaction, as interdependence, which can provide the basis for an ethics appropriate to the trauma of ecocide. As cultural feminism sought to expand our sense of personal identity to a sense of inter-identification with the human other, so this ecological ethics would expand our personal and species sense of identity into an inter-identification with the natural world. Such a realization can lead us to an ethics appropriate to our time, a dimension of which has come to be known as "deep ecology."(26) For this ethics, we do not begin from the uniqueness of our human selfhood, existing against a taken-for-granted background of earth and sky. Nor is our body somehow irrelevant to ethical relations, with knowledge of it reduced always to tactics of domination. Our knowledge does not assimilate the other to the same, but reveals and furthers the continuing dance of interdependence. And our ethical motivation is neither rationalist system nor individualistic self-interest, but a sense of connection to all of life. The deep ecology sense of self-realization goes beyond the modern Western sense of "self" as an isolated ego striving for hedonistic gratification. . . . . Self, in this sense, is experienced as integrated with the whole of nature.(27) Having gained distance and sophistication of perception [from the development of science and political freedoms] we can turn and recognize who we have been all along. . . . we are our world knowing itself. We can relinquish our separateness. We can come home again -- and participate in our world in a richer, more responsible and poignantly beautiful way.(28) Ecological ways of knowing nature are necessarily participatory. [This] knowledge is ecological and plural, reflecting both the diversity of natural ecosystems and the diversity in cultures that nature-based living gives rise to. The recovery of the feminine principle is based on inclusiveness. It is a recovery in nature, woman and man of creative forms of being and perceiving. In nature it implies seeing nature as a live organism. In woman it implies seeing women as productive and active. Finally, in men the recovery of the feminine principle implies a relocation of action and activity to create life-enhancing, not life-reducing and life-threatening societies.(29) In this context, the knowing ego is not set against a world it seeks to control, but one of which it is a part. To continue the feminist perspective, the mother knows or seeks to know the child's needs. Does it make sense to think of her answering the call of the child in abstraction from such knowledge? Is such knowledge necessarily domination? Or is it essential to a project of care, respect and love, precisely because the knower has an intimate, emotional connection with the known?(30) Our ecological vision locates us in such close relation with our natural home that knowledge of it is knowledge of ourselves. And this is not, contrary to Levinas's fear, reducing the other to the same, but a celebration of a larger, more inclusive, and still complex and articulated self.(31) The noble and terrible burden of Levinas's individuated responsibility for sheer existence gives way to a different dream, a different prayer: Being rock, being gas, being mist, being Mind, Being the mesons traveling among the galaxies with the speed of light, You have come here, my beloved one. . . . You have manifested yourself as trees, as grass, as butterflies, as single-celled beings, and as chrysanthemums; but the eyes with which you looked at me this morning tell me you have never died.(32) In this prayer, we are, quite simply, all in it together. And, although this new ecological Holocaust -- this creation of planet Auschwitz – is under way, it is not yet final. We have time to step back from the brink, to repair our world. But only if we see that world not as an other across an irreducible gap of loneliness and unchosen obligation, but as a part of ourselves as we are part of it, to be redeemed not out of duty, but out of love; neither for our selves nor for the other, but for us all.

#### Anthro is the root-cause of Racism. Animal death should be morally equivalent to the death of humans. Suffering and death must be evaluated equally among all beings, failure to do so justifies all forms of oppression

SINGER 2002

 (Peter Singer is the author of Writings on an Ethical Life, Practical Ethics; and Rethinking Life arid Death; among many others. Re is currently the Ira W. De Camp Professor of Bio ethics at Princeton University’s Center for Human Values Animal Liberation 2002 : P \_8-9\_)

**If a being suffers there cart be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that its suffering be counted equally with the like suffering**—insofar as rough comparisons can he made—of any other being. **If a being is not capable of suffering, or of experiencing enjoyment or happiness there is nothing to be taken into account. So the limit of sentience** (using the term as a convenient if not strictly accurate shorthand for the capacity to suffer and/or experience**) is the only defensible boundary of concern for the interests of others. To mark this boundary by some other character tic like intelligence or rationality Would he to mark it in an arbitrary manner. Why not choose some other characteristic, like skin color?** **Racist violate the principle of equ1ity by giving greater weight to the interests of members of their own race when there is a clash between their interests and the interests of those of another race**. Sexists violate the principle of equality by favoring the interests of their own sex. **Similarly, speciesists allow the interests of members of their own species to override the greater interests of members of other species. The pattern is identical in each case**.

Our alternative is to endorse the thought experiment of the voluntary global suicide of humanity – that solves

Kochi and Ordan 8 (Queen’s University, Borderlands journal, http://www.borderlands.net.au/vol7no3\_2008/kochiordan\_argument.pdf)JFS

For some, guided by the pressure of moral conscience or by a practice of harm minimisation, the appropriate response to historical and contemporary environmental destruction is that of action guided by abstention. For example, one way of reacting to mundane, everyday complicity is the attempt to abstain or opt-out of certain aspects of modern, industrial society: to not eat non-human animals, to invest ethically, to buy organic produce, to not use cars and buses, to live in an environmentally conscious commune. Ranging from small personal decisions to the establishment of parallel economies (think of organic and fair trade products as an attempt to set up a quasi-parallel economy), a typical modern form of action is that of a refusal to be complicit in human practices that are violent and destructive. Again, however, at a practical level, to what extent are such acts of nonparticipation rendered banal by their complicity in other actions? In a grand register of violence and harm the individual who abstains from eating non-human animals but still uses the bus or an airplane or electricity has only opted out of some harm causing practices and remains fully complicit with others. One response, however, which bypasses the problem of complicity and the banality of action is to take the non-participation solution to its most extreme level. In this instance, the only way to truly be non-complicit in the violence of the human heritage would be to opt-out altogether. Here, then, the modern discourse of reflection, responsibility and action runs to its logical conclusion – the global suicide of humanity – as a free-willed and ‘final solution’. While we are not interested in the discussion of the ‘method’ of the global suicide of humanity per se, one method that would be the least violent is that of humans choosing to no longer reproduce. [10] The case at point here is that the global suicide of humanity would be a moral act; it would take humanity out of the equation of life on this earth and remake the calculation for the benefit of everything nonhuman. While suicide in certain forms of religious thinking is normally condemned as something which is selfish and inflicts harm upon loved ones, the global suicide of humanity would be the highest act of altruism. That is, global suicide would involve the taking of responsibility for the destructive actions of the human species. By eradicating ourselves we end the long process of inflicting harm upon other species and offer a human-free world. If there is a form of divine intelligence then surely the human act of global suicide will be seen for what it is: a profound moral gesture aimed at redeeming humanity. Such an act is an offer of sacrifice to pay for past wrongs that would usher in a new future. Through the death of our species we will give the gift of life to others. It should be noted nonetheless that our proposal for the global suicide of humanity is based upon the notion that such a radical action needs to be voluntary and not forced. In this sense, and given the likelihood of such an action not being agreed upon, it operates as a thought experiment which may help humans to radically rethink what it means to participate in modern, moral life within the natural world. In other words, whether or not the act of global suicide takes place might well be irrelevant. What is more important is the form of critical reflection that an individual needs to go through before coming to the conclusion that the global suicide of humanity is an action that would be worthwhile. The point then of a thought experiment that considers the argument for the global suicide of humanity is the attempt to outline an anti-humanist, or non-human-centric ethics. Such an ethics attempts to take into account both sides of the human heritage: the capacity to carry out violence and inflict harm and the capacity to use moral reflection and creative social organisation to minimise violence and harm. Through the idea of global suicide such an ethics reintroduces a central question to the heart of moral reflection: To what extent is the value of the continuation of human life worth the total harm inflicted upon the life of all others? Regardless of whether an individual finds the idea of global suicide abhorrent or ridiculous, this question remains valid and relevant and will not go away, no matter how hard we try to forget, suppress or repress it.

The round should be about the value of competing thought experiments

Kochi 8 (Tarik is a lecturer in the school of Law, Queen’s University, Belfast, Northern Ireland, “An Argument for the Global Suicide of Humanity,” December 2008, Vol. 7 No. 3, [www.borderlands.net,au](http://www.borderlands.net,au), http://www.borderlands.net.au/vol7no3\_2008/kochiordan\_argument.pdf)

Finally, it is important to note that such a standpoint need not fall into a version of green or eco-fascism that considers other forms of life more important than the lives of humans. Such a position merely replicates in reverse the speciesism of modern humanist thought. Any choice between the eco-fascist and the humanist, colonial-speciesist is thus a forced choice and is, in reality, a non-choice that should be rejected. The point of proposing the idea of the global suicide of humanity is rather to help identify the way in which we differentially value different forms of life and guide our moral actions by rigidly adhered to standards of life-value. Hence the idea of global suicide, through its radicalism, challenges an ideological or culturally dominant idea of life-value. Further, through confronting humanist ethics with its own violence against the non-human, the idea of global suicide opens up a space for dialectical reflection in which the utopian ideals of both modern humanist and anti-humanist ethics may be comprehended in relation to each other. One possibility of this conflict is the production of a differing standpoint from which to understand the subject and the scope of moral action.

### T

#### 1) “Resolved” implies a policy or legislative decision

Jeff Parcher 1, former debate coach at Georgetown, Feb, http://www.ndtceda.com/archives/200102/0790.html

Pardon me if I turn to a source besides Bill. American Heritage Dictionary: Resolve: 1. To make a firm decision about. 2. To decide or express by formal vote. 3. To separate something into constiutent parts See Syns at \*analyze\* (emphasis in orginal) 4. Find a solution to. See Syns at \*Solve\* (emphasis in original) 5. To dispel: resolve a doubt. - n 1. Firmness of purpose; resolution. 2. A determination or decision. (2) The very nature of the word "resolution" makes it a question. American Heritage: A course of action determined or decided on. A formal statement of a decision, as by a legislature. (3) The resolution is obviously a question. Any other conclusion is utterly inconceivable. Why? Context. The debate community empowers a topic committee to write a topic for ALTERNATE side debating. The committee is not a random group of people coming together to "reserve" themselves about some issue. There is context - they are empowered by a community to do something. In their deliberations, the topic community attempts to craft a resolution which can be ANSWERED in either direction. They focus on issues like ground and fairness because they know the resolution will serve as the basis for debate which will be resolved by determining the policy desirablility of that resolution. That's not only what they do, but it's what we REQUIRE them to do. We don't just send the topic committee somewhere to adopt their own group resolution. It's not the end point of a resolution adopted by a body - it's the preliminary wording of a resolution sent to others to be answered or decided upon. (4) Further context: the word resolved is used to emphasis the fact that it's policy debate. Resolved comes from the adoption of resolutions by legislative bodies. A resolution is either adopted or it is not. It's a question before a legislative body. Should this statement be adopted or not. (5) The very terms 'affirmative' and 'negative' support my view. One affirms a resolution. Affirmative and negative are the equivalents of 'yes' or 'no' - which, of course, are answers to a question.

#### 2) “United States Federal Government should” means the debate is solely about the outcome of a policy established by governmental means

Ericson ’03 (Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

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

#### 3)“Federal Government” means the central government in Washington D.C.

**Encarta ‘2K** (Online Encyclopedia, http://encarta.msn.com)

“The federal government of the United States is centered in Washington DC”

#### 4) That excludes individual action

Black’s Law Dictionary, ’99 (Seventh Edition Ed. Bryan A. Garner (chief))

Federal government 1. A national government that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national political matters

**Violation – The aff doesn’t change defend a federal government restricting the executive’s war powers.**

**And independently a voting issue for limits and ground--- negative strategy is based on the “should” question of the resolution---there are an infinite number of reasons that the scholarship of their advocacy could be a reason to vote affirmative--- these all obviate the only predictable strategies based on topical action---they overstretch our research burden and undermine preparedness for all debates**

**Extratopicality – they claim advantages outside the scope of the resolution – the destroys predictable limits**

**Aff conditionality – without the plan text as a stable source of the offense the aff can shift their advocacy to get out of offense which discourages research and clash**

Our methodology and vision for debate is best—

#### We provide the best means of personal growth and education

Yovel 03, Assistant professor, Faculty of Law, and coordinator of the law and philosophy program, University of Haifa, Israel, in ‘3

[Jonathan, Cardozo Law Review, January, 24 Cardozo L. Rev. 635]

While reactive forces respond to their context and in this way are dictated by them, active forces find their own mediums for action. There is a catch, however. Force needs resistance in order to matter, grow, and be challenged. In a paragraph whose importance to the understanding of Nietzsche's "mechanics" of power can hardly be exaggerated, he spells it out: Strong nature ... needs objects of resistance; hence it looks for what resists ... . The strength of those who attack can be measured in a way by the opposition they require: every growth is indicated by the search for a mighty opponent ... . The task is not simply to master what happens to resist, but what requires us to stake all our strength, suppleness, and fighting skill - opponents that are our equals. n41 Thus the will is measured in the scope of its challenges. But the active will is not satisfied by those challenges it happens to come by. For the challenge to be worthwhile it must be the most powerful possible, and so the Person of Power must cultivate the will to power of those who are not. In debate, the Person of Power will make the best of her opponent's position, nourish it, then go after the strong points or strongest version or interpretation. Kasparov must play Karpov, then Deep Blue. The philosophical problems most worthy of engagement - and Nietzsche spoke of problems as something a philosopher challenges to single combat - are the toughest ones. Of himself, he asserts "I only attack causes which are victorious ... . I have never taken a step publicly that did not compromise me: that is my criterion of doing right." n42 In society, the law that best serves the Person of Power is that which empowers the other to best prepare him for such "war." n43 Law must elevate the other's own powers to the fullest of [\*650] their potential (the overman, of course, has no presupposed potential: a potential for her would be power-constraining rather than a horizon for development). The Person of Power will not rely on social norms to serve her in overcoming or in dominating: that is the way of ressentiment. Instead she will form law that will make the best out of that which she must stand up to, namely the others. Nietzsche is no closet-liberal: the principle of law as empowerment of the other is strictly a mean for the will to become more, for the power to will. n44 Law does not empower the other as a subject, although through empowerment the other might discover her own power and so much the better. The other - the person enslaved by the psychology of ressentiment, be he called slave or master - needs not be empowered to become less contemptible, yet it is because of his contemptibility that he must be elevated. Empowerment of the other is the active will's maxim in the exact sense in which the elevated will categorizes natural phenomenon and shapes cognition and language - namely, creating the environment for the best possibilities for the will to cast itself in the world, both natural and social.

#### Rooting debate in a traditional forum turns all of your marginalization offense and means we solve the best predictable ground

Arendt 05, The New School for Social Research, in ‘5, [Hannah, The Promise of Politics, pg. 41-2]

It lies in the nature of a tradition to be accepted and absorbed as it were, by common sense which fits the particular and idiosyncratic data of our other senses into a world we inhabit together and share in common. In this general understanding, common sense indicates that in the human condition of plurality men check and control their particular sense data against the common data of others (just as seeing and hearing and other sense perceptions belong to the human condition of man in his singularity and guarantee that he can see by himself: for perception per se he does not need his fellow men). Whether we say that the plurality of men or the commonality of the human world is its specific sphere of competence common sense obviously operates chiefly in the public realm of politics and morals, and it is that realm which must suffer when common sense and its matter-of-course judgments no longer function no longer make sense. Historically, common sense is as much Roman in origin as tradition. Not that the Greeks and Hebrews lacked common sense, bur only the Romans developed it until it became the highest criterion in tlte management of public-political affairs. With the Romans remembering the past became a matter of tradition, and it is in the sense of tradition that the development of common sense found its politically most important expression. Since then common sense has been bound and nourished by tradition, so that when traditional standards cease to make sense and no longer serve as general rule under which all or most particular instances can be subsumed common sense unavoidably atrophies. By the same token the past, the remembrance of what we have in common as our common origin is threatened by oblivion. The tradition-bound judgments of common sense extracted and saved from the past whatever was conceptualized by tradition and was still applicable to present conditions. This "practical” commonsense method of remembrance did not require any effort but was imparted to us in a common world as our shared inheritance. Its atrophy, therefore, has caused immediately an atrophy in the dimension of the past and initiated the creeping and irresistible movement of shallowness which spreads a veil of meaninglessness over all spheres of modern life.

#### Our model of debate is key to accessing governmental knowledge

Zwarensteyn 12, Ellen, Thesis Submitted to the Graduate Faculty of GRAND VALLEY STATE UNIVERSITY In Partial Fulfillment of the Requirements For the Degree of Masters of Science, “High School Policy Debate as an Enduring Pathway to Political Education: Evaluating Possibilities for Political Learning,” August, <http://scholarworks.gvsu.edu/cgi/viewcontent.cgi?article=1034&context=theses>

The first trend to emerge concerns how debate fosters in-depth political knowledge. Immediately, every resolution calls for analysis of United States federal government action. Given that each debater may debate in over a hundred different unique rounds, there is a competitive incentive thoroughly research as many credible, viable, and in-depth strategies as possible. Moreover, the requirement to debate both affirmative and negative sides of the topic injects a creative necessity to defend viable arguments from a multitude of perspectives. As a result, the depth of knowledge spans questions not only of what, if anything, should be done in response to a policy question, but also questions of who, when, where, and why. This opens the door to evaluating intricacies of government branch, committee, agency, and even specific persons who may yield different cost-benefit outcomes to conducting policy action. Consider the following responses: I think debate helped me understand how Congress works and policies actually happen which is different than what government classes teach you. Process counterplans are huge - reading and understanding how delegation works means you understand that it is not just congress passes a bill and the president signs. You understand that policies can happen in different methods. Executive orders, congress, and courts counterplans have all helped me understand that policies don’t just happen the way we learn in government. There are huge chunks of processes that you don't learn about in government that you do learn about in debate. Similarly, Debate has certainly aided [my political knowledge]. The nature of policy-making requires you to be knowledgeable of the political process because process does effect the outcome. Solvency questions, agent counterplans, and politics are tied to process questions. When addressing the overall higher level of awareness of agency interaction and ability to identify pros and cons of various committee, agency, or branch activity, most respondents traced this knowledge to the politics research spanning from their affirmative cases, solvency debates, counterplan ideas, and political disadvantages. One of the recurring topics concerns congressional vs. executive vs. court action and how all of that works. To be good at debate you really do need to have a good grasp of that. There is really something to be said for high school debate - because without debate I wouldn’t have gone to the library to read a book about how the Supreme Court works, read it, and be interested in it. Maybe I would’ve been a lawyer anyway and I would’ve learned some of that but I can’t imagine at 16 or 17 I would’ve had that desire and have gone to the law library at a local campus to track down a law review that might be important for a case. That aspect of debate in unparalleled - the competitive drive pushes you to find new materials. Similarly, I think [my political knowledge] comes from the politics research that we have to do. You read a lot of names name-dropped in articles. You know who has influence in different parts of congress. You know how different leaders would feel about different policies and how much clout they have. This comes from links and internal links. Overall, competitive debaters must have a depth of political knowledge on hand to respond to and formulate numerous arguments. It appears debaters then internalize both the information itself and the motivation to learn more. This aids the PEP value of intellectual pluralism as debaters seek not only an oversimplified ‘both’ sides of an issue, but multiple angles of many arguments. Debaters uniquely approach arguments from a multitude of perspectives – often challenging traditional conventions of argument. With knowledge of multiple perspectives, debaters often acknowledge their relative dismay with television news and traditional outlets of news media as superficial outlets for information.

#### Failure to engage the state means the aff fails, coalitions break down, and hawks seize the political – only engagement solves

Mouffe 09 (Chantal Mouffe is Professor of Political Theory at the Centre for the Study of Democracy, University of Westminster, “The Importance of Engaging the State”, *What is Radical Politics Today?*, Edited by Jonathan Pugh, pp. 233-7)

In both Hardt and Negri, and Virno, there is therefore emphasis upon ‘critique as withdrawal’. They all call for the development of a non-state public sphere. They call for self-organisation, experimentation, non-representative and extra-parliamentary politics. They see forms of traditional representative politics as inherently oppressive. So they do not seek to engage with them, in order to challenge them. They seek to get rid of them altogether. This disengagement is, for such influential personalities in radical politics today, the key to every political position in the world. The Multitude must recognise imperial sovereignty itself as the enemy and discover adequate means of subverting its power. Whereas in the disciplinary era I spoke about earlier, sabotage was the fundamental form of political resistance, these authors claim that, today, it should be desertion. It is indeed through desertion, through the evacuation of the places of power, that they think that battles against Empire might be won. Desertion and exodus are, for these important thinkers, a powerful form of class struggle against imperial postmodernity. According to Hardt and Negri, and Virno, radical politics in the past was dominated by the notion of ‘the people’. This was, according to them, a unity, acting with one will. And this unity is linked to the existence of the state. The Multitude, on the contrary, shuns political unity. It is not representable because it is an active self-organising agent that can never achieve the status of a juridical personage. It can never converge in a general will, because the present globalisation of capital and workers’ struggles will not permit this. It is anti-state and anti-popular. Hardt and Negri claim that the Multitude cannot be conceived any more in terms of a sovereign authority that is representative of the people. They therefore argue that new forms of politics, which are non-representative, are needed. They advocate a withdrawal from existing institutions. This is something which characterises much of radical politics today. The emphasis is not upon challenging the state. Radical politics today is often characterised by a mood, a sense and a feeling, that the state itself is inherently the problem. Critique as engagement I will now turn to presenting the way I envisage the form of social criticism best suited to radical politics today. I agree with Hardt and Negri that it is important to understand the transition from Fordism to post-Fordism. But I consider that the dynamics of this transition is better apprehended within the framework of the approach outlined in the book Hegemony and Socialist Strategy: Towards a Radical Democratic Politics (Laclau and Mouffe, 2001). What I want to stress is that many factors have contributed to this transition from Fordism to post-Fordism, and that it is necessary to recognise its complex nature. My problem with Hardt and Negri’s view is that, by putting so much emphasis on the workers’ struggles, they tend to see this transition as if it was driven by one single logic: the workers’ resistance to the forces of capitalism in the post-Fordist era. They put too much emphasis upon immaterial labour. In their view, capitalism can only be reactive and they refuse to accept the creative role played both by capital and by labour. To put it another way, they deny the positive role of political struggle. In Hegemony and Socialist Strategy: Towards a Radical Democratic Politics we use the word ‘hegemony’ to describe the way in which meaning is given to institutions or practices: for example, the way in which a given institution or practice is defined as ‘oppressive to women’, ‘racist’ or ‘environmentally destructive’. We also point out that every hegemonic order is therefore susceptible to being challenged by counter-hegemonic practices – feminist, anti-racist, environmentalist, for example. This is illustrated by the plethora of new social movements which presently exist in radical politics today (Christian, anti-war, counter-globalisation, Muslim, and so on). Clearly not all of these are workers’ struggles. In their various ways they have nevertheless attempted to influence and have influenced a new hegemonic order. This means that when we talk about ‘the political’, we do not lose sight of the ever present possibility of heterogeneity and antagonism within society. There are many different ways of being antagonistic to a dominant order in a heterogeneous society – it need not only refer to the workers’ struggles. I submit that it is necessary to introduce this hegemonic dimension when one envisages the transition from Fordism to post-Fordism. This means abandoning the view that a single logic (workers’ struggles) is at work in the evolution of the work process; as well as acknowledging the pro-active role played by capital. In order to do this we can find interesting insights in the work of Luc Boltanski and Eve Chiapello who, in their book The New Spirit of Capitalism (2005), bring to light the way in which capitalists manage to use the demands for autonomy of the new movements that developed in the 1960s, harnessing them in the development of the post-Fordist networked economy and transforming them into new forms of control. They use the term ‘artistic critique’ to refer to how the strategies of the counter-culture (the search for authenticity, the ideal of selfmanagement and the anti-hierarchical exigency) were used to promote the conditions required by the new mode of capitalist regulation, replacing the disciplinary framework characteristic of the Fordist period. From my point of view, what is interesting in this approach is that it shows how an important dimension of the transition from Fordism to post- Fordism involves rearticulating existing discourses and practices in new ways. It allows us to visualise the transition from Fordism to post- Fordism in terms of a hegemonic intervention. To be sure, Boltanski and Chiapello never use this vocabulary, but their analysis is a clear example of what Gramsci called ‘hegemony through neutralisation’ or ‘passive revolution’. This refers to a situation where demands which challenge the hegemonic order are recuperated by the existing system, which is achieved by satisfying them in a way that neutralises their subversive potential. When we apprehend the transition from Fordism to post- Fordism within such a framework, we can understand it as a hegemonic move by capital to re-establish its leading role and restore its challenged legitimacy. We did not witness a revolution, in Marx’s sense of the term. Rather, there have been many different interventions, challenging dominant hegemonic practices. It is clear that, once we envisage social reality in terms of ‘hegemonic’ and ‘counter-hegemonic’ practices, radical politics is not about withdrawing completely from existing institutions. Rather, we have no other choice but to engage with hegemonic practices, in order to challenge them. This is crucial; otherwise we will be faced with a chaotic situation. Moreover, if we do not engage with and challenge the existing order, if we instead choose to simply escape the state completely, we leave the door open for others to take control of systems of authority and regulation. Indeed there are many historical (and not so historical) examples of this. When the Left shows little interest, Right-wing and authoritarian groups are only too happy to take over the state. The strategy of exodus could be seen as the reformulation of the idea of communism, as it was found in Marx. There are many points in common between the two perspectives. To be sure, for Hardt and Negri it is no longer the proletariat, but the Multitude which is the privileged political subject. But in both cases the state is seen as a monolithic apparatus of domination that cannot be transformed. It has to ‘wither away’ in order to leave room for a reconciled society beyond law, power and sovereignty. In reality, as I’ve already noted, others are often perfectly willing to take control. If my approach – supporting new social movements and counterhegemonic practices – has been called ‘post-Marxist’ by many, it is precisely because I have challenged the very possibility of such a reconciled society. To acknowledge the ever present possibility of antagonism to the existing order implies recognising that heterogeneity cannot be eliminated. As far as politics is concerned, this means the need to envisage it in terms of a hegemonic struggle between conflicting hegemonic projects attempting to incarnate the universal and to define the symbolic parameters of social life. A successful hegemony fixes the meaning of institutions and social practices and defines the ‘common sense’ through which a given conception of reality is established. However, such a result is always contingent, precarious and susceptible to being challenged by counter-hegemonic interventions. Politics always takes place in a field criss-crossed by antagonisms. A properly political intervention is always one that engages with a certain aspect of the existing hegemony. It can never be merely oppositional or conceived as desertion, because it aims to challenge the existing order, so that it may reidentify and feel more comfortable with that order. Another important aspect of a hegemonic politics lies in establishing linkages between various demands (such as environmentalists, feminists, anti-racist groups), so as to transform them into claims that will challenge the existing structure of power relations. This is a further reason why critique involves engagement, rather than disengagement. It is clear that the different demands that exist in our societies are often in conflict with each other. This is why they need to be articulated politically, which obviously involves the creation of a collective will, a ‘we’. This, in turn, requires the determination of a ‘them’. This obvious and simple point is missed by the various advocates of the Multitude. For they seem to believe that the Multitude possesses a natural unity which does not need political articulation. Hardt and Negri see ‘the People’ as homogeneous and expressed in a unitary general will, rather than divided by different political conflicts. Counter-hegemonic practices, by contrast, do not eliminate differences. Rather, they are what could be called an ‘ensemble of differences’, all coming together, only at a given moment, against a common adversary. Such as when different groups from many backgrounds come together to protest against a war perpetuated by a state, or when environmentalists, feminists, anti-racists and others come together to challenge dominant models of development and progress. In these cases, the adversary cannot be defined in broad general terms like ‘Empire’, or for that matter ‘Capitalism’. It is instead contingent upon the particular circumstances in question – the specific states, international institutions or governmental practices that are to be challenged. Put another way, the construction of political demands is dependent upon the specific relations of power that need to be targeted and transformed, in order to create the conditions for a new hegemony. This is clearly not an exodus from politics. It is not ‘critique as withdrawal’, but ‘critique as engagement’. It is a ‘war of position’ that needs to be launched, often across a range of sites, involving the coming together of a range of interests. This can only be done by establishing links between social movements, political parties and trade unions, for example. The aim is to create a common bond and collective will, engaging with a wide range of sites, and often institutions, with the aim of transforming them. This, in my view, is how we should conceive the nature of radical politics.

#### We provide a methodology that inspires compassion

Porter 06, head of the School of International Studies at the University of South Australia, 2006 [Elisabeth, "Can politics practice compassion?" Hypatia Sep, p project muse]

As individuals, we have responsibilities beyond our personal connections to assist whenever it is within our capacities and resources to do so. I do not want to give the impression that our entire lives should be devoted to attending to others' needs. To do so would return women to exclusive nurturance at the expense of self-development and public citizenship. It is, rather, a matter of acting with compassion when it [End Page 108] is possible to do so, and the possibility of course is debatable and requires priorities, which differ with us all. Politically, this means that politicians, nations, and international organizations have a similar responsibility to alleviate the suffering that results when peoples' basic needs are not met. There is a heavy responsibility on wealthy nations where the extent of poverty and misery is not as conspicuous as elsewhere to assist less wealthy nations.16 State responsibility is acute when suffering is caused by harsh economic policies, careless sales of arms and military weapons, severe immigration rules, and obscene responses to terrorism by further acts of violence. With the majority of these massive global issues, most of us can only demonstrate the first stage of co-suffering, and perhaps move to the second and debate the merit of options that might meet peoples' needs, and alleviate suffering. This vocal civic debate can provoke the third process of political responses that actually lead to political compassion. Given nations' moral failures of compassion and such conspicuous evidence of oppression, exploitation, brutality, and indifference, we need to be observant, and understand the implications of a failure to practice compassion.

#### That’s especially true in the context of policy debate

Greene 05, Pf Rhetoric at Minnesota, in ’05, (Ronald, Cultural Studies, Volume 19, Issue 1 January, pages 100 – 126)

Nearly forty years after the debating-both-sides controversy erupted in the mid 1950s, Star Muir (1993) defended the 'game' of debate on a new moral terrain. Muir would do so not on the ground of Day's reconstructed public ethic of free and full expression but on the internal terrain of a student's moral and cognitive development. For Muir, one need not fear speaking in a way divorced from the sincerity principle because the argumentative demands of tournament debate promoted the moral development suggested by Kohlberg and his allies in moral education. Debating both sides promoted moral development because it produced the necessary respect for a plurality of voices without being seduced by a moral relativism. Muir writes, 'cognitive development progresses from individualism to social conformity to social contract theory to universal ethical principles'. Moral development requires a respect for pluralism and universal ethical principles and, according to Muir, debating both sides, as a 'tool of moral pedagogy' promotes tolerance, pluralism and a means for acquiring universal norms. In other words, having students voice an argument different from their own conviction distances students from their own ego-centrism and instils them with a sympathetic attachment to the viewpoint of the other. In this way, debating both sides promotes dialogical and dialectical forms of reasoning educating the student away from his/her tendency to reason 'egocentrically and sociocentrically' (p. 287). Muir concludes his argument this way: '[M] oral education is not a guaranteed formula for rectitude, but the central tendencies of switch side debating are in line with convictions built on empathic appreciation for alternative points of view … in a framework of equal access to ideas and equal opportunities for expression, the truth that emerges is more defensible and more justifiable' (p. 292). For Muir, debate retains its epistemic value while also taking on a new role in the moral development of students. At the same time, like Day, debating both sides performs internally on the mind and soul of the student. In the language of moral development, Day's defence of free and full expression circulates as a universal norm to guide the interaction between concrete interlocutors. For Muir, Day's defence is curiously absent, but it is important to note how Muir reassigns conviction to the process of generating morally sound judgments. According to Muir, the game of debate is redeemed on the terrain of moral development because it gives students the distance from acting on their arguments, helping to secure the possibility of respecting pluralism without risking moral relativism.

### Case

#### The alt is anti political – cedes politics to the right – trades off with debate of specific issues

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This book assumes that political thinking matters to the fate of American democracy and therefore to the prospect for decency in the world. It also has a more specific objective: to contribute to a new start for intellectual life on the left. But surely this sounds presumptuous. Why should political intellectuals of the left need a new start? It is hard—perhaps impossible—to disentangle the practical from the philosophical reasons, for they are intertwined. All in all, the criticism of established arrangements—which is the left’s specialty—does not convince a critical mass of the populace to put the critics in charge. Even if the critics are right to chastise the authorities as they see fit, many people do not see the critics as responsible, reliable, or competent to govern. They see them as another upper crust: a “new class” of “limousine liberals” and “cultural elitists.” Those of the left’s political-intellectual traditions that have flourished in recent decades, however worthy at times for moral self-definition, have led us into a wilderness. For all the intense emphasis in recent years on identity politics, political thought has purposes that reach far beyond self-definition. It has to make itself felt. It has to be useful. This might, on the face of it, be a healthy time for an intellectual renaissance. The nation is deeply troubled, and for all the cant about optimism and faith, much of the nation knows it is troubled. Intellectuals in particular despair of public discourse—reasonably so—and despair might prove, this time, to be the birth mother of invention. What resources, then, do Americans have for thinking freshly? Surprisingly few. The Marxism and postmodernism of the left are exhausted. Conservative thought has collapsed into market grandiosity and nationalist bombast. Surely, for more reasons than one, these are times that try men’s souls—in terms that Tom Paine would have found sometimes familiar (the urgency, certainly) and sometimes strange. This nation (as well as others) is besieged by murderous enemies, yet beneath the repetition of stock phrases—“war on terror,” “axis of evil,” “root causes”—is precious little public discussion of how this state of affairs came to pass and what can be done about it. Rarely does a fair, thorough, intelligible public debate take place on any significant political subject. But that is not to say that the country is inert. To the contrary, the attentive populace is highly charged and intensely polarized. Eventually, even the ostrich side of the left had to recognize that since the mid-1970s it had been outfought by a disciplined alliance of plutocrats and right-wing fundamentalist Christians: that a political bloc equipped with big (if crude) ideas and ready for sledgehammer combat had seized the country’s commanding heights. But many on the left do not recognize quite how they lost or understand how to recover. During this period the hallmark of left-wing thought has been negation—resistance is the more glamorous word. Intellectuals of the left have been playing defense. It is as if history were a tank dispatched by the wrong army, and all that was left to do was to stand in its way and try to block it. If we had a manual, it would be called, What Is Not to Be Done. We are the critics—it is for others to imagine a desirable world and a way to achieve it. The left has gotten comfortable on the margins of political life, and for intellectuals it has been no different. The left speaks of “resistance” and “speaking truth to power.” But resistance presupposes that power has the initiative—resistance is its negative pole.

#### Critique fails to affect institutions – the alt paves the way for slavery and imperialism

**Boggs 2k** (CAROL BOGGS, PF POLITICAL SCIENCE – SOUTHERN CALIFORNIA, 00, THE END OF POLITICS, 250-1)

But it is a very deceptive and misleading minimalism.  While Oakeshott debunks political mechanisms and rational planning, as either useless or dangerous, the actually **existing power structure**-replete with its own centralized state apparatus, institutional hierarchies, conscious designs, and indeed, rational plans-**remains fully intact, insulated from the minimalist critique.**  In other words, ideologies and plans are perfectly acceptable for elites who preside over established governing systems, but not for ordinary citizens or groups anxious to challenge the status quo.  Such one-sided **minimalism gives carte blanche to elites who naturally desire** as much space to maneuver as possible.  The flight from “abstract principles” rules out ethical attacks on injustices that may pervade the status quo (**slavery or imperialist wars**, for example) insofar as those injustices might be seen as too deeply embedded in the social and institutional matrix of the time to be the target of oppositional political action.  **If politics is reduced to nothing other than a process of everyday muddling-through, then people are condemned to accept the harsh realities of an exploitative and authoritarian system,** with no choice but to yield to the dictates of “conventional wisdom”.  Systematic attempts to ameliorate oppressive conditions would, in Oakeshott’s view, turn into a political nightmare.  A belief that totalitarianism might results from extreme attempts to put society in order is one thing; to argue that all politicized efforts to change the world are necessary doomed either to impotence or totalitarianism requires a completely different (and indefensible) set of premises.  Oakeshott’s minimalism poses yet another, but still related, range of problems: **the shrinkage of politics hardly suggests that corporate colonization, social hierarchies, or centralized state and military institutions will magically disappear** from people’s lives.  Far from it: the public space vacated by ordinary citizens, well informed and ready to fight for their interests, simply gives elites more room to consolidate their own power and privilege.  Beyond that, the fragmentation and chaos of a Hobbesian civil society, not too far removed from the excessive individualism, social Darwinism and urban violence of the American landscape could open the door to a modern Leviathan intent on restoring order and unity in the face of social disintegration.  Viewed in this light, the contemporary drift towards antipolitics might set the stage for a reassertion of politics in more authoritarian and reactionary guise-or it could simply end up reinforcing the dominant state-corporate system.  In either case, the state would probably become what Hobbes anticipated: the embodiment of those universal, collective interests that had vanished from civil society.16 And either outcome would run counter to the facile antirationalism of Oakeshott’s Burkean muddling-through theories.

## 2NC

### Solvency

#### Sexton ignores other forms of racial oppression, erases identity, and cherry picks evidence—reject his ideas

Spickard 09 - University of California, Santa Barbara (Paul Amalgamation Schemes: Antiblackness and the Critique of Multiracialism (review) American Studies - Volume 50, Number 1/2, Spring/Summer 2009, pp. 125-127 ajones)

One of the major developments in ethnic studies over the past two decades has been the idea (and sometimes the advocacy) of multiraciality. From a theoretical perspective, this has stemmed from a post-structuralist attempt to deconstruct the categories created by the European Enlightenment and its colonial enterprise around the world. From a personal perspective, it has been driven by the life experiences in the last half-century of a growing number of people who have and acknowledge mixed parentage. The leading figures in this scholarly movement are probably Maria Root and G. Reginald Daniel, but the writers are many and include figures as eminent as Gary Nash and Randall Kennedy. A small but dedicated group of writers has resisted this trend: chiefly Rainier Spencer, Jon Michael Spencer, and Lewis Gordon. They have raised no controversy, perhaps [End Page 125] because their books are not well written, and perhaps because their arguments do not make a great deal of sense. It is not that there is nothing wrong with the literature and the people movement surrounding multiraciality. Some writers and social activists do tend to wax rhapsodic about the glories of intermarriage and multiracial identity as social panacea. A couple of not-very-thoughtful activists (Charles Byrd and Susan Graham) have been coopted by the Gingrichian right (to be fair, one must point out that most multiracialists are on the left). And, most importantly, there is a tension between some Black intellectuals and the multiracial idea over the lingering fear that, for some people, adopting a multiracial identity is a dodge to avoid being Black. If so, that might tend to sap the strength of a monoracially-defined movement for Black community empowerment. With Amalgamation Schemes, Jared Sexton is trying to stir up some controversy. He presents a facile, sophisticated, and theoretically informed intelligence, and he picks a fight from the start. His title suggests that the study of multiraciality is some kind of plot, or at the very least an illegitimate enterprise. His tone is angry and accusatory on every page. It is difficult to get to the grounds of his argument, because the cloud of invective is so thick, and because his writing is abstract, referential, and at key points vague. For Sexton (as for the Spencers and Gordon) race is about Blackness, in the United States and around the world. That is silly, for there are other racialized relationships. In the U.S., native peoples were racialized by European intruders in all the ways that Africans were, and more: they were nearly extinguished. To take just one example from many around the world, Han Chinese have racialized Tibetans historically in all the ways (including slavery) that Whites have racialized Blacks and Indians in the United States. So there is a problem with Sexton's concept of race as Blackness. There is also a problem with his insistence on monoraciality. For Sexton and the others, one cannot be mixed or multiple; one must choose ever and only to be Black. I don't have a problem with that as a political choice, but to insist that it is the only possibility flies in the face of a great deal of human experience, and it ignores the history of how modern racial ideas emerged. Sexton does point out, as do many writers, the flawed tendencies in multiracial advocacy mentioned in the second paragraph above. But he imputes them to the whole movement and to the subject of study, and that is not a fair assessment. The main problem is that Sexton argues from conclusion to evidence, rather than the other way around. That is, he begins with the conclusion that the multiracial idea is bad, retrograde, and must be resisted. And then he cherry-picks his evidence to fit his conclusion. He spends much of his time on weaker writers such as Gregory Stephens and Stephen Talty who have been tangential to the multiracial literature. When he addresses stronger figures like Daniel, Root, Nash, and Kennedy, he carefully selects his quotes to fit his argument, and misrepresents their positions by doing so. Sexton also makes some pretty outrageous claims. He takes the fact that people who study multiracial identities are often studying aspects of family life (such as the shaping of a child's identity), and twists that to charge them with homophobia and nuclear family-ism. That is simply not accurate for any of the main writers in the field. The same is true for his argument by innuendo that scholars of multiraciality somehow advocate mail-order bride services. And sometimes Sexton simply resorts to ad hominem attacks on the motives and personal lives of the writers themselves. It is a pretty tawdry exercise. That is unfortunate, because Sexton appears bright and might have written a much better book detailing his hesitations about some tendencies in the multiracial movement. He might even have opened up a new direction for productive study of racial commitment amid complexity. Sexton does make several observations that are worth thinking about, [End Page 126] and surely this intellectual movement, like any other, needs to think critically about itself. Sadly, this is not that book.

 **“anti-blackness” vs “whiteness studies” is a distinction without a difference. The effects and political mechanisms are indistinguishable**

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 This experiment demonstrates that pro-whiteness and anti-blackness can be distinguished psychologically. The different ways in which the egalitarian nonracist participants responded to the inadmissible confession in the case of white and black defendants shows that those participants were not biased against blackness, but were biased in favor of whiteness. However, in support of Ignatiev’s position against thinking of whiteness as preserved, the experiment also demonstrates that the effects of pro-whiteness and anti-blackness disadvantage black people in equivalent ways. Even though the distinction between anti-blackness and pro-whiteness can be useful for distinguishing different types of psychological reactions to situations involving race, it does not mean that pro-whiteness does not have adverse effects on people of color. This is signi¤cant because the effects, not the mere psychology, of pro-whiteness are most relevant to racism and its elimination. As compared to a black defendant who made no incriminating confession, a black defendant who did make such a confession was treated fairly by the egalitarian white participants. Compared to a white defendant who made such a confession, the black defendant who confessed was not treated fairly by the white egalitarians. The white defendant received bene¤cial treatment that the black defendant did not, disadvantaging the black defendant in a signi¤cant way— solely because of the defendant’s race. Even if one claims that the black defendant received justice while the white defendant received mercy, the verdicts are racist because they awarded special treatment to the white defendant because he or she was white. While the anti-outgroup bias of traditional racists and the proingroup bias of egalitarian nonracists do so in different ways, both unfairly discriminate based on race. Both pro-whiteness and anti-blackness attitudes are racist because they have racist effects.

#### They rely on a juridical concept of power that normatively excludes the black body. They hold whites responsible and operate in the same structures that create their exclusion, vote neg to vote aff

McWhorter 5 [Ladelle, Prof. of Philosophy and Women's Studies, University of Richmond, Philosophy & Social Criticism, vol 31 nos 5–6, 2005, p. 533–556 //liam]

In the growing body of literature that makes up what has in recent years come to be called ‘Whiteness Studies’, observations like the following are commonplace: ‘Whiteness has, at least within the modern era and within Western societies, tended to be constructed as a norm, an unchanging and unproblematic location, a position from which all other identities come to be marked by their difference’ (Bonnett, 1996: 146).1 According to Whiteness Studies theorists, the white race functions not so much as a race, one among many, as, at times at least, the race – the real human race – and, at other times, no race, simply the healthy, mature norm of human existence as opposed to all those other groups of people who are somehow off-white, off-track, more or less deviant. Whiteness, the racial norm in Western industrial societies, is at one and the same time the exemplar of human being and the unmarked selfsame over against the racially marked other(s).2¶ This understanding of whiteness emerged in the late 1980s and 1990s as race scholars in the USA and the UK began to treat white identity as an epistemic object, in contrast to many earlier race theorists who studied non-whites primarily.3 By taking whiteness as an object of study, these scholars problematized the status of the white race as an unmarked norm and exposed the racism implicit in its having that status. Thus, it seemed, these new race theorists had discovered a potentially very powerful tool for dismantling racism. Revealing the ways in which whiteness functions as a racial norm, they began to denaturalize it and thereby rob it of some of its power to order thought and practice. Their scholarship was and is, deliberately and unapologetically, deeply engaged political activism. Feminist sociologist Ruth Frankenberg articulates this confluence of theory and practice well when she writes: ‘Naming whiteness and white people helps dislodge the claims of both to rightful dominance’ (Frankenberg, 1993: 234).¶ While readers of the work of Michel Foucault may well be struck by the deep affinities between Foucaultian genealogy, counter-memory, and counter-attack on the one hand and Whiteness Studies’ denaturalization of heretofore largely unquestioned racial categories on the other, surprisingly most writers in the Whiteness Studies movement seem all but unaware of Foucault’s analytics of biopower and his descriptions of normalization.4 Their repeated observation that whiteness functions as a norm and their close analyses of its unmarked status come not out of an awareness of Foucaultian genealogy but rather out of sociological studies of institutional racism like Omi and Winant’s Racial Formation in the United States: From the 1960s to the 1990s (1994). Their work sounds like Foucault’s at times, but if they are moving toward an analysis that is like his in some ways, it is from a starting point that is radically different. In this paper I will argue that, in part because of the limitations imposed by that different starting point, Whiteness Studies theorists typically miss their mark both naalytically and politically. Their major problem lies in the fact that they still work within what Foucault calls a juridical conception of power, a conception that simply does not capture the ways in which power operates in modern industrialized societies, especially in relation to the so obviously bio-political phenomenon of racial oppression.

### 2NC – Overview

#### It still solves enough of your offense – produces radical change by operating within the system

Lobel 07, Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

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

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

### A2: FW = oppressive

#### Topicality is not a question of oppression –

#### Only we access offense---arguments like framework don’t injure people, but policies do

The idea that a particular style of argument causes personal injury results in censorship

Amanda Anderson 6, Andrew W. Mellon Professor of Humanities and English at Brown University, Spring 2006, “Reply to My Critic(s),” Criticism, Vol. 48, No. 2, p. 281-290

Probyns piece is a mixture of affective fallacy, argument by authority, and bald ad hominem. There's a pattern here: precisely the tendency to personalize argument and to foreground what Wendy Brown has called "states of injury." Probyn says, for example, that she "felt ostracized by the books content and style." Ostracized? Argument here is seen as directly harming persons, and this is precisely the state of affairs to which I object. Argument is not injurious to persons. Policies are injurious to persons and institutionalized practices can alienate and exclude. But argument itself is not directly harmful; once one says it is, one is very close to a logic of censorship. The most productive thing to do in an open academic culture (and in societies that aspire to freedom and democracy) when you encounter a book or an argument that you disagree with is to produce a response or a book that states your disagreement. But to assert that the book itself directly harms you is tantamount to saying that you do not believe in argument or in the free exchange of ideas, that your claim to injury somehow damns your opponent's ideas. When Probyn isn't symptomatic, she's just downright sloppy. One could work to build up the substance of points that she throws out the car window as she screeches on to her next destination, but life is short, and those with considered objections to liberalism and proceduralism would not be particularly well served by the exercise. As far as I can tell, Probyn thinks my discussion of universalism is of limited relevance (though far more appealing when put, by others, in more comfortingly equivocating terms), but she's certain my critique of appeals to identity is simply not able to accommodate the importance of identity in social and political life. As I make clear throughout the book, and particularly in my discussion of the headscarf debate in France, identity is likely to be at the center of key arguments about life in plural democracies; my point is not that identity is not relevant, but simply that it should not be used to trump or stifle argument. In closing, I'd like to speak briefly to the question of proceduralism's relevance to democratic vitality. One important way of extending the proceduralist arguments put forth by Habeimas is to work on how institutions and practices might better promote participation in democratic life. The apathy and nonparticipation plaguing democratic institutions in the United States is a serious problem, and can be separated from the more romantic theoretical investments in a refusal to accept the terms of what counts as argument, or in assertions of inassimilable difference. With respect to the latter, which is often glorified precisely as the moment when politics or democracy is truly occurring, I would say, on the contrary democracy is not happening then-rather, the limits or deficiencies of an actually existing democracy are making themselves felt. Acknowledging struggle, conflict, and exclusion is vital to democracy, but insisting that exclusion is not so much a persistent challenge for modern liberal democracies but rather inherent to the modern liberal-democratic political form as such seems to me precisely to remain stalled in a romantic critique of Enlightenment. It all comes down to a question of whether one wants to work with the ideals of democracy or see them as essentially normative in a negative sense: this has been the legacy of a certain critique of Enlightenment, and it is astonishingly persistent in the left quarters in the academy. One hears it clearly when Robbins makes confident reference to liberalisms tendency to ignore "the founding acts of violence on which a social order is based." One encounters it in the current vogue for the work of Giorgio Agamben and Carl Schmitt. Saying that a state of exception defines modernity or is internal to the law itself may help to sharpen your diagnoses of certain historical conditions, but if absolutized as it is in these accounts, it gives you nothing but a negative diagnostic and a compensatory flight to a realm entirely other-the kind of mystical, Utopian impulse that flees from these conditions rather than confronts and fights them on terms that derive from the settled-if constantly evolving-normative basis of democratic modernity. If one is outraged by the flagrant disregard of democratic procedures in the current U.S. political regime, then one needs to be able to coherently say why democratic procedures matter, what principles underwrite them, and what historical movements and institutions have helped us to secure and support them. Argument as a critical practice and as a key component of democratic institutions and public debate has a vital role to play in such a task.

### A2: We solve decisionmaking

#### They can’t solve – discussion of specific policy-questions is crucial for skills development---we control uniqueness: university students already have preconceived and ideological notions about how the world operates---government policy discussion is vital to force engagement with and resolution of competing perspectives to improve social outcomes, however those outcomes may be defined---and, it breaks out of traditional pedagogical frameworks by positing students as agents of decision-making

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These government or quasi-government think tank simulations often provide very similar lessons for high-level players as are learned by students in educational simulations. Government participants learn about the importance of understanding foreign perspectives, the need to practice internal coordination, and the necessity to compromise and coordinate with other governments in negotiations and crises. During the Cold War, political scientist Robert Mandel noted how crisis exercises and war games forced government officials to overcome ‘‘bureaucratic myopia,’’ moving beyond their normal organizational roles and thinking more creatively about how others might react in a crisis or conflict.6 The skills of imagination and the subsequent ability to predict foreign interests and reactions remain critical for real-world foreign policy makers. For example, simulations of the Iranian nuclear crisis\*held in 2009 and 2010 at the Brookings Institution’s Saban Center and at Harvard University’s Belfer Center, and involving former US senior officials and regional experts\*highlighted the dangers of misunderstanding foreign governments’ preferences and misinterpreting their subsequent behavior. In both simulations, the primary criticism of the US negotiating team lay in a failure to predict accurately how other states, both allies and adversaries, would behave in response to US policy initiatives.7 By university age, students often have a pre-defined view of international affairs, and the literature on simulations in education has long emphasized how such exercises force students to challenge their assumptions about how other governments behave and how their own government works.8 Since simulations became more common as a teaching tool in the late 1950s, educational literature has expounded on their benefits, from encouraging engagement by breaking from the typical lecture format, to improving communication skills, to promoting teamwork.9 More broadly, simulations can deepen understanding by asking students to link fact and theory, providing a context for facts while bringing theory into the realm of practice.10 These exercises are particularly valuable in teaching international affairs for many of the same reasons they are useful for policy makers: they force participants to ‘‘grapple with the issues arising from a world in flux.’’11 Simulations have been used successfully to teach students about such disparate topics as European politics, the Kashmir crisis, and US response to the mass killings in Darfur.12 Role-playing exercises certainly encourage students to learn political and technical facts\* but they learn them in a more active style. Rather than sitting in a classroom and merely receiving knowledge, students actively research ‘‘their’’ government’s positions and actively argue, brief, and negotiate with others.13 Facts can change quickly; simulations teach students how to contextualize and act on information.14

### 2NC – War Powers Debates good

#### Prefer specificity—simulation about war powers is uniquely empowering

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

2. Factual Chaos and Uncertainty

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

### 2NC – Government Knowledge

#### Policy simulation key to creativity and decisionmaking—the cautious detachment that they criticize is key to its revolutionary benefits

Eijkman 12, The role of simulations in the authentic learning for national security policy development: Implications for Practice / Dr. Henk Simon Eijkman. [electronic resource] <http://nsc.anu.edu.au/test/documents/Sims_in_authentic_learning_report.pdf>. Dr Henk Eijkman is currently an independent consultant as well as visiting fellow at the University of New South Wales at the Australian Defence Force Academy and is Visiting Professor of Academic Development, Annasaheb Dange College of Engineering and Technology in India. As a sociologist he developed an active interest in tertiary learning and teaching with a focus on socially inclusive innovation and culture change. He has taught at various institutions in the social sciences and his work as an adult learning specialist has taken him to South Africa, Malaysia, Palestine, and India. He publishes widely in international journals, serves on Conference Committees and editorial boards of edited books and international journal

Policy simulations stimulate Creativity Participation in policy games has proved to be a highly effective way of developing new combinations of experience and creativity, which is precisely what innovation requires (Geurts et al. 2007: 548). Gaming, whether in analog or digital mode, has the power to stimulate creativity, and is one of the most engaging and liberating ways for making group work productive, challenging and enjoyable. Geurts et al. (2007) cite one instance where, in a National Health Care policy change environment, ‘the many parties involved accepted the invitation to participate in what was a revolutionary and politically very sensitive experiment precisely because it was a game’ (Geurts et al. 2007: 547). Data from other policy simulations also indicate the uncovering of issues of which participants were not aware, the emergence of new ideas not anticipated, and a perception that policy simulations are also an enjoyable way to formulate strategy (Geurts et al. 2007). Gaming puts the players in an ‘experiential learning’ situation, where they discover a concrete, realistic and complex initial situation, and the gaming process of going through multiple learning cycles helps them work through the situation as it unfolds. Policy gaming stimulates ‘learning how to learn’, as in a game, and learning by doing alternates with reflection and discussion. The progression through learning cycles can also be much faster than in real-life (Geurts et al. 2007: 548). The bottom line is that problem solving in policy development processes requires creative experimentation. This cannot be primarily taught via ‘camp-fire’ story telling learning mode but demands hands-on ‘veld learning’ that allow for safe creative and productive experimentation. This is exactly what good policy simulations provide (De Geus, 1997; Ringland, 2006). In simulations participants cannot view issues solely from either their own perspective or that of one dominant stakeholder (Geurts et al. 2007). Policy simulations enable the seeking of Consensus Games are popular because historically people seek and enjoy the tension of competition, positive rivalry and the procedural justice of impartiality in safe and regulated environments. As in games, simulations temporarily remove the participants from their daily routines, political pressures, and the restrictions of real-life protocols. In consensus building, participants engage in extensive debate and need to act on a shared set of meanings and beliefs to guide the policy process in the desired direction