## 1NC

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**The focus on ­­­­­­­­­­­­­­particular identities becomes an alibi for acquiescence of class struggles – they obscure the logic of capital and ensure repetition of oppression**

**Zavarzadeh 94** (Mas'Ud, The Stupidity That Consumption Is Just as Productive as Production": In the Shopping Mall of the Post-al Left," College Literature, Vol. 21, No. 3, The Politics of Teaching Literature 2 (Oct., 1994),pp. 92-114)

Post-al logic is marked above all by its erasure of "production" as the determining force in organizing human societies and their institutions, and its insistence on "consumption" and "distribution" as the driving force of the social.5 The argument of the post-al left (briefly) is that "labor," in advanced industrial "democracies," is superseded by "information," and consequently "knowledge" (not class struggle over the rate of surplus labor) has become the driving force of history. The task of the post-al left is to deconstruct the "metaphysics of labor" and consequently to announce the end of socialism and with it the "outdatedness" of the praxis of abolishing private property (that is, congealed alienated labor) in the post-al moment. Instead of abolishing private property, an enlightened radical democracy which is to supplant socialism (as Laclau, Mouffe, Aronowitz, Butler, and others have advised) should make property holders of each citizen. The post-al left rejects the global objective conditions of production for the local subjective circumstances of consumption, and its master trope is what R-4 [France] so clearly foregrounds: the (shopping) "mall"?the ultimate site of consumption "with all latest high-tech textwares" deployed to pleasure the "body." In fact, the post-al left has "invented" a whole new interdiscipline called "cultural studies" that provides the new alibi for the regime of profit by shifting social analytics from "production" to "consumption." (On the political economy of "invention" in ludic theory, see Transformation 2 on "The Invention of the Queer.") To prove its "progressiveness," the post-al left devotes most of its energies (see the writings of John Fiske, Constance Penley, Michael Berube, Henry Louis Gates, Jr., Andrew Ross, Susan Willis, Stuart Hall, Fredric Jameson), to demonstrate how "consumption" is in fact an act of production and resistance to capitalism and a practice in which a Utopian vision for a society of equality is performed! The shift from "production" to "consumption" manifests itself in post-al left theories through the focus on "superstructural" cultural analysis and the preoccupation not with the "political economy" ("base") but with "representation"? for instance, of race, sexuality, environment, ethnicity, nationality, and identity. This is, for example, one reason for [Hill's] ridiculing the "base" and "superstructure" analytical model of classical Marxism (Marx, A Contribution to the Critique of Political Economy) with an anecdote (the privileged mode of "argument" for the post-al left) that the base is really not all that "basic." To adhere to the base/superstructure model for [him] is to be thrown into an "epistemological gulag." For the post-al left a good society is, therefore, one in which, as [France] puts it, class antagonism is bracketed and the "surplus value" is distributed more evenly among men and women, whites and persons of color, the lesbian and the straight. It is not a society in which "surplus value"?the exploitative appropriation of the other's labor-is itself eliminated by revolutionary praxis. The post-al left's good society is not one in which private ownership is obsolete and the social division of labor (class) is abolished. Rather it is a society in which the fruit of exploitation of the proletariat (surplus labor) is more evenly distributed and a near-equality of consumption is established. This distributionist/consumptionist theory that underwrites the economic interests of the (upper)middle classes is the foundation for all the texts in this exchange and their pedagogies. A good pedagogy in these texts therefore is one in which power is distributed evenly in the classroom: a pedagogy that constructs a classroom of consensus not antagonism (thus opposition to "politicizing the classroom" in OR-1 [Hogan]) and in which knowledge (concept) is turned through the process that OR-3 [McCormick] calls "translation"?into "consumable" EXPERIENCES. The more "intense" the experience, as the anecdotes of [McCormick] show, the more successful the pedagogy. In short, it is a pedagogy that removes the student from his/her position in the social relations of production and places her/him in the personal relation of consumption: specifically, EXPERIENCE of/as the consumption of pleasure. The post-al logic **obscures** the laws of motion of capital by very specific assumptions and moves-many of which are rehearsed in the texts here. I will discuss some of these, mention others in passing, and hint at several more. (I have provided a full account of all these moves in my "Post-ality" in Transformation 1.) I begin by outlining the post-al assumptions that "democracy" is a never-ending, open "dialogue" and "conversation" among multicultural citizens; that the source of social inequities is "power"; that a post-class hegemonic "coalition," as OR-5 [Williams] calls it-and not class struggle-is the dynamics of social change; that truth (as R-l [Hill] writes) is an "epistemological gulag"? a construct of power and thus any form of "ideology critique" that raises questions of "falsehood" and "truth" ("false consciousness") does so through a violent exclusion of the "other" truths by, in [Williams'] words, "staking sole legitimate claim" to the truth in question. Given the injunction of the post-al logic against binaries (truth/falsehood), the project of "epistemology" is displaced in the ludic academy by "rhetoric." The question, consequently, becomes not so much what is the "truth" of a practice but whether it "works." (Rhetoric has always served as an alibi for pragmatism.) Therefore, [France] is not interested in whether my practices are truthful but in what effects they might have: if College Literature publishes my texts would such an act (regardless of the "truth" of my texts) end up "cutting our funding?" [he] asks. A post-al leftist like [France], in short, "resists" the state only in so far as the state does not cut [his] "funding." Similarly, it is enough for a cynical pragmatist like [Williams] to conclude that my argument "has little prospect of effectual force" in order to disregard its truthfulness. The post-al dismantling of "epistemology" and the erasure of the question of "truth," it must be pointed out, is undertaken to protect the economic interests of the ruling class. If the "truth question" is made to seem outdated and an example of an orthodox binarism ([Hill]), any conclusions about the truth of ruling class practices are excluded from the scene of social contestation as a violent logocentric (positivistic) totalization that disregards the "difference" of the ruling class. This is why a defender of the ruling class such as [Hill] sees an ideology critique aimed at unveiling false consciousness and the production of class consciousness as a form of "epistemological spanking." It is this structure of assumptions that enables [France] to answer my question, "What is wrong with being dogmatic?" not in terms of its truth but by reference to its pragmatics (rhetoric): what is "wrong" with dogmatism, [he] says, is that it is violent rhetoric ("textual Chernobyl") and thus Stalinist. If I ask what is wrong with Stalinism, again (in terms of the logic of [his] text) I will not get a political or philosophical argument but a tropological description.6 The post-al left is a New Age Left: the "new new left" privileged by [Hill] and [Williams]- the laid-back, "sensitive," listening, and dialogic left of coalitions, voluntary work, and neighborhood activism (more on these later). It is, as I will show, anti-intellectual and populist; its theory is "bite size" (mystifying, of course, who determines the "size" of the "bite"), and its model of social change is anti-conceptual "spontaneity": May 68, the fall of the Berlin Wall, and, in [Hill's] text, Chiapas. In the classroom, the New Age post-al pedagogy inhibits any critique of the truth of students' statements and instead offers, as [McCormick] makes clear, a "counseling," through anecdotes, concerning feelings. The rejection of "truth" (as "epistemological gulag"?[Hill]), is accompanied by the rejection of what the post-al left calls "economism." Furthermore, the post-al logic relativizes subjectivities, critiques functionalist explanation, opposes "determinism," and instead of closural readings, offers supplementary ones. It also celebrates eclecticism; puts great emphasis on the social as discourse and on discourse as always inexhaustible by any single interpretation? discourse (the social) always "outruns" and "exceeds" its explanation. Post-al logic is, in fact, opposed to any form of "explanation" and in favor of mimetic description: it regards "explanation" to be the intrusion of a violent outside and "description" to be a respectful, caring attention to the immanent laws of signification (inside). This notion of description which has by now become a new dogma in ludic feminist theory under the concept of "mimesis" (D. Cornell, Beyond Accommodation)?regards politics to be always immanent to practices: thus the banalities about not politicizing the classroom in [Hogan's] "anarchist" response to my text7 and the repeated opposition to binaries in all nine texts. The opposition to binaries is, in fact, an **ideological alibi for erasing class struggle**, as is quite clear in [France's] rejection of the model of a society "divided by two antagonistic classes" (see my Theory and its Other).

**The aff’s approach to knowledge which privileges subjectivity and uncertainty denies the objectivity in class relations and the oppression that is produced from capital accumulation**

**Zavarzadeh 94** (Mas'Ud, The Stupidity That Consumption Is Just as Productive as Production": In the Shopping Mall of the Post-al Left," College Literature, Vol. 21, No. 3, The Politics of Teaching Literature 2 (Oct., 1994), pp. 92-114)

**The unsurpassable objectivity** which is **not open** to rhetorical **interpretation** and constitutes the decided foundation of critique is the "outside" that Marx calls the "Working Day" (Capital 1: 340-416). ([France] willfully misrecognizes my notion of objectivity by confusing my discussion of identity politics and objectivity.) The working day is not what it seems: its reality, like the reality of all capitalist practices, is an alienated reality-there is a contradiction between its appearance and its essence. It "appears" as if the worker, during the working day, receives wages that are equal compensation for his labor. This mystification originates in the fact that the capitalist pays not for "labor" but for "labor power": when labor power is put to use it produces more than it is paid for. The "working day" is the site of the unfolding of this fundamental contradiction: it is a divided day, divided into "necessary labor" the part in which the worker produces value equivalent to his wages and the "other," the part of "surplus labor"?a part in which the worker works for free and produces "surplus value." The second part of the working day is the source of profit and accumulation of capital. "Surplus labor" is the OBJECTIVE FACT of capitalist relations of production: without "surplus labor" there will be no profit, and without profit there will be no accumulation of capital, and without accumulation of capital there will be no capitalism. The goal of bourgeois economics is to conceal this part of the working day, and it should therefore be no surprise that, as a protector of ruling class interests in the academy, [Hill], with a studied casualness, places "surplus value" in the adjacency of "radical bible-studies" and quietly turns it into a rather boring matter of interest perhaps only to the dogmatic. To be more concise: "surplus labor" is that **objective, unsurpassable "outside**" that cannot be made part of the economies of the "inside" without capitalism itself being transformed into socialism. Revolutionary critique is grounded in this truth-objectivity-since all social institutions and practices of capitalism are founded upon the objectivity of surplus labor. The role of a revolutionary pedagogy of critique is to produce class consciousness so as to assist in organizing people into a new vanguard party that aims at abolishing this FACT of the capitalist system and trans-forming capitalism into a communist society. As I have argued in my "Postality" [Transformation 1], (post)structuralist theory, through the concept of "representation," makes all such facts an effect of interpretation and turns them into "undecidable" processes. The boom in ludic theory and Rhetoric Studies in the bourgeois academy is caused by the service it renders the ruling class: it makes the OBJECTIVE reality of the extraction of surplus labor a subjective one-not a decided fact but a matter of "interpretation." In doing so, it "deconstructs" (see the writings of such bourgeois readers as Gayatri Spivak, Cornel West, and Donna Haraway) the labor theory of value, displaces production with consumption, and resituates the citizen from the revolutionary cell to the ludic shopping mall of [France].

**The denial of the objective suffering that capitalism naturalizes violence and makes us indifferent toward limitless annihilation**

**Zavarzadeh 94** (Mas'Ud, The Stupidity That Consumption Is Just as Productive as Production": In the Shopping Mall of the Post-al Left," College Literature, Vol. 21, No. 3, The Politics of Teaching Literature 2 (Oct., 1994),pp. 92-114)

What is **obscured** in this representation of the non-dialogical is, of course, the violence of the dialogical. I leave aside here the violence with which these advocates of non-violent conversations attack me in their texts and cartoon. My concern is with the practices by which the post-al left, through dialogue, **naturalizes** (and eroticizes) the violence that keeps capitalist democracy in power. What is violent? Subjecting people to the **daily terrorism** of layoffs in order to maintain high rates of profit for the owners of the means of production or redirecting this violence (which gives annual bonuses, in addition to multi-million-dollar salaries, benefits, and stock options, to the CEOs of the very corporations that are laying off thousands of workers) against the ruling class in order to end class societies? What is violent? Keeping millions of people in poverty, hunger, starvation, and homelessness, and deprived of basic health care, at a time when the forces of production have reached a level that can, in fact, provide for the needs of all people, or trying to overthrow this system? What is violent? Placing in office, under the alibi of "free elections," post fascists (Italy) and allies of the ruling class (Major, Clinton, Kohl, Yeltsin) or struggling to end this farce? What is violent? Reinforcing these practices by "talking" about them in a "reasonable" fashion (that is, within the rules of the game established by the ruling class for limited reform from "within") or marking the violence of conversation and its complicity with the status quo, there by breaking the frame that represents "dialogue" as participation, when in fact it is merely a formal strategy for legitimating the established order? Any society in which the labor of many is the source of wealth for the few-all class societies-is a **society of violence**, and no amount of "talking" is going to change that **objective fact.** "Dialogue" and "conversation" are aimed at arriving at a consensus by which this violence is made more **tolerable, justifiable, and naturalized.**

#### Vote negative to endorse a political strategy that withdraws from capitalist relations

#### Universal Rejection is key – it’s the only way to hollow out capitalist structures – the debate should be a question of competing methodologies – The primary question of the ballot should be affirming an ethical orientation that best organizes against capitalist relations

Herod 4 renowned philosopher, author, and social activist

(James, “Getting Free”, <http://site.www.umb.edu/faculty/salzman_g/Strate/GetFre/06.htm>, accessed 8/6/09)

It is time to try to describe, at first abstractly and later concretely, a strategy for destroying capitalism. This strategy, at its most basic, calls for pulling time, energy, and resources out of capitalist civilization and putting them into building a new civilization. The image then is one of emptying out capitalist structures, hollowing them out, by draining wealth, power, and meaning out of them until there is nothing left but shells**.** This is definitely an aggressive strategy. It requires great militancy, and constitutes an attack on the existing order.The strategy clearly recognizes that capitalism is the enemy and must be destroyed, but it is not a frontal attack aimed at overthrowing the system, but an inside attack aimed at gutting it, while simultaneously replacing it with something better, something we want. Thus capitalist structures (corporations, governments, banks, schools, etc.) are not seized so much as simply abandoned. Capitalist relations are not fought so much as they are simply rejected. We stop participating in activities that support (finance, condone) the capitalist world and start participating in activities that build a new world while simultaneously undermining the old. We create a new pattern of social relations alongside capitalist relations and then we continually build and strengthen our new pattern while doing every thing we can to weaken capitalist relations. In this way our new democratic, non-hierarchical, non-commodified relations can eventually overwhelm the capitalist relations and force them out of existence**.** This is how it has to be done. This is a plausible, realistic strategy**.** To think that we could create a whole new world of decent social arrangements overnight, in the midst of a crisis, during a so-called revolution, or during the collapse of capitalism, is foolhardy**.** Our new social world must grow within the old, and in opposition to it, until it is strong enough to dismantle and abolish capitalist relations. Such a revolution will never happen automatically, blindly, determinably, because of the inexorable, materialist laws of history. It will happen, and only happen, because we want it to, and because we know what we’re doing and know how we want to live, and know what obstacles have to be overcome before we can live that way, and know how to distinguish between our social patterns and theirs. But we must not think that the capitalist world can simply be ignored, in a live and let live attitude, while we try to build new lives elsewhere. (There is no elsewhere.) There is at least one thing, wage-slavery, that we can’t imply stop participating in (but even here there are ways we can chip away at it). Capitalism must be explicitly refused and replaced by something else. This constitutes War, but it is not a war in the traditional sense of armies and tanks, but a war fought on a daily basis, on the level of everyday life, by millions of people. It is a war nevertheless because the accumulators of capital will use coercion, brutality, and murder, as they have always done in the past, to try to block any rejection of the system. They have always had to force compliance; they will not hesitate to continue doing so. Nevertheless, there are many concrete ways that individuals, groups, and neighborhoods can gut capitalism, which I will enumerate shortly. We must always keep in mind how we became slaves; then we can see more clearly how we can cease being slaves**.** We were forced into wage-slavery because the ruling class slowly, systematically, and brutally destroyed our ability to live autonomously. By driving us off the land, changing the property laws, destroying community rights, destroying our tools, imposing taxes, destroying our local markets**,** and so forth, we were forced onto the labor market in order to survive, our only remaining option being to sell, for a wage, our ability to work. It’s quite clear then how we can overthrow slavery. We must reverse this process. We must begin to reacquire the ability to live without working for a wage or buying the products made by wage-slaves (that is, we must get free from the labor market and the way of living based on it), and embed ourselves instead in cooperative labor and cooperatively produced goods. Another clarification is needed. This strategy does not call for reforming capitalism, for changing capitalism into something else. It calls for replacing capitalism, totally, with a new civilization. This is an important distinction, because capitalism has proved impervious to reforms, as a system. We can sometimes in some places win certain concessions from it (usually only temporary ones) and win some (usually short-lived) improvements in our lives as its victims, but we cannot reform it piecemeal, as a system. Thus our strategy of gutting and eventually destroying capitalism requires at a minimum a totalizing image, an awareness that we are attacking an entire way of life and replacing it with another, and not merely reforming one way of life into something else. Many people may not be accustomed to thinking about entire systems and social orders, but everyone knows what a lifestyle is, or a way of life, and that is the way we should approach it. The thing is this: in order for capitalism to be destroyed millions and millions of people must be dissatisfied with their way of life. They must want something else and see certain existing things as obstacles to getting what they want**.** It is not useful to think of this as a new ideology. It is not merely a belief-system that is needed, like a religion, or like Marxism, or Anarchism. Rather it is a new prevailing vision, a dominant desire, an overriding need. What must exist is a pressing desire to live a certain way, and not to live another way. If this pressing desire were a desire to live free, to be autonomous, to live in democratically controlled communities, to participate in the self-regulating activities of a mature people, then capitalism could be destroyed. Otherwise we are doomed to perpetual slavery and possibly even to extinction. The content of this vision is actually not new at all, but quite old. The long term goa**l** of communists, anarchists, and socialists has always been to restore community. Even the great peasant revolts of early capitalism sought to get free from external authorities and restore autonomy to villages. Marx defined communism once as a free association of producers, and at another time as a situation in which the free development of each is a condition for the free development of all**.** Anarchists have always called for worker and peasant self-managed cooperatives. The long term goals have always been clear: to abolish wage-slavery, to eradicate a social order organized solely around the accumulation of capital for its own sake, and to establish in its place a society of free people who democratically and cooperatively self-determine the shape of their social world**.**

### 1nc

**The affirmative’s failure to read a topical plan undermines debate’s transformative potential**

**“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.

**“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.

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

Steinberg and Freeley ‘13

David Director of Debate at U Miami, Former President of CEDA, officer, American Forensic Association and National Communication Association. Lecturer in Communication studies and rhetoric. Advisor to Miami Urban Debate League, Masters in Communication, and Austin, JD, Suffolk University, attorney who focuses on criminal, personal injury and civil rights law, *Argumentation and Debate*

*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

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

#### Effective deliberative discourse is the lynchpin to solving all existential problems---switch-side debate is most effective---our K turns the whole case

Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p311

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But the democratic capacities built by debate are not limited to speech—as indicated earlier, debate builds capacity for critical thinking, analysis of public claims, informed decision making, and better public judgment. If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change outpacing the capacities of the citizenry to comprehend them, and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate. If democracy is open to rearticulation, it is open to rearticulation precisely because as the challenges of modern political life proliferate, the citizenry's capacities can change, which is one of the primary reasons that theorists of democracy such as Ocwey in The Public awl Its Problems place such a high premium on education (Dewey 1988,63, 154). Debate provides an indispensible form of education in the modem articulation of democracy because it builds precisely the skills that allow the citizenry to research and be informed about policy decisions that impact them, to son rhroueh and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly infonnation-rich environment, and to prioritize their time and political energies toward policies that matter the most to them. The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediatcd information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources: To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144) Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials. There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, the evidence presented here warrants strong support for expanding debate practice in the classroom as a technology for enhancing democratic deliberative capacities. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a crucial component of a rich and vital democratic life. In-class debate practice both aids students in achieving the best goals of college and university education, and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of meaningful political engagement and new articulations of democratic life. Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to produce revisions of democratic life that are necessary if democracy is not only to survive, but to thrive. Democracy faces a myriad of challenges, including: domestic and international issues of class, gender, and racial justice; wholesale environmental destruction and the potential for rapid climate change; emerging threats to international stability in the form of terrorism, intervention and new possibilities for great power conflict; and increasing challenges of rapid globalization including an increasingly volatile global economic structure. More than any specific policy or proposal, an informed and active citizenry that deliberates with greater skill and sensitivity provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with the existential challenges to democracy [in an] increasingly complex world.

**The second impact is government knowledge – debate’s key to in-depth 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 method**s**. 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 2009** (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 oppositiona**l 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.

**Yes the government has flawed components but challenging our understanding of government is important and valuable through discussion of federal policies--- Learning that language allows us to confront and challenge those institutions outside of this round and resolves a lot of the impacts they discuss**

**Hoppe 99** Robert Hoppe is Professor of Policy and knowledge in the Faculty of Management and Governance at Twente University, the Netherlands. "Argumentative Turn" Science and Public Policy, volume 26, number 3, June 1999, pages 201–210 works.bepress.com

ACCORDING TO LASSWELL (1971), policy science is about the production and application of knowledge of and in policy. Policy-makers who desire to tackle problems on the political agenda successfully, should be able to mobilise the best available knowledge. This requires high-quality knowledge in policy. Policy-makers and, in a democracy, citizens, also **need to know how policy processes really evolve**. This demands **precise knowledge of policy.** There is an obvious link between the two: the more and better the knowledge of policy, the easier it is to mobilise knowledge in policy. Lasswell expresses this interdependence by defining the policy scientist's operational task as eliciting the maximum rational judgement of all those involved in policy-making. For the applied policy scientist or policy analyst this implies the development of two skills. First, for the sake of mobilising the best available knowledge in policy, he/she should be able to **mediate between different scientific disciplines.** Second, to optimise the interdependence between science in and of policy, she/he should be able to mediate between science and politics. Hence Dunn's (1994, page 84) formal definition of policy analysis as an applied social science discipline that uses multiple research methods in a context of argumentation, public debate [and political struggle] to create, evaluate critically, and communicate **policy-relevant knowledge**. Historically, the differentiation and successful institutionalisation of policy science can be interpreted as the spread of the functions of knowledge organisation, storage, dissemination and application in the knowledge system (Dunn and Holzner, 1988; van de Graaf and Hoppe, 1989, page 29). Moreover, this scientification of hitherto 'unscientised' functions, by including science of policy explicitly, aimed to gear them to the political system. In that sense, Lerner and Lasswell's (1951) call for policy sciences anticipated, and probably helped bring about, the scientification of politics. Peter Weingart (1999) sees the development of the science-policy nexus as a dialectical process of the scientification of politics/policy and the politicisation of science. Numerous studies of political controversies indeed show that science advisors behave like any other self-interested actor (Nelkin, 1995). Yet science somehow managed to maintain its functional cognitive authority in politics. This may be because of its changing shape, which has been characterised as the emergence of a post-parliamentary and post-national network democracy (Andersen and Burns, 1996, pages 227-251). National political developments are put in the background by ideas about uncontrollable, but apparently inevitable, international developments; in Europe, national state authority and power in public policy-making is leaking away to a new political and administrative elite, situated in the institutional ensemble of the European Union. National representation is in the hands of political parties which no longer control ideological debate. The authority and policy-making power of national governments is also leaking away towards increasingly powerful policy-issue networks, dominated by functional representation by interest groups and practical experts. In this situation, public debate has become even more fragile than it was. It has become diluted by the predominance of purely pragmatic, managerial and administrative argument, and under-articulated as a result of an explosion of new political schemata that crowd out the more conventional ideologies. The new schemata do feed on the ideologies; but in larger part they consist of a random and unarticulated 'mish-mash' of attitudes and images derived from ethnic, local-cultural, professional, religious, social movement and personal political experiences. The market-place of political ideas and arguments is thriving; but on the other hand, politicians and citizens are **at a loss to judge its nature and quality.** Neither political parties, nor public officials, interest groups, nor social movements and citizen groups, nor even the public media show **any inclination, let alone competency, in ordering this inchoate field**. In such conditions, **scientific debate** provides a **much needed minimal amount of order** and articulation of concepts, arguments and ideas. Although frequently more in rhetoric than substance, reference to scientific 'validation' does provide politicians, public officials and citizens alike with **some sort of compass in an ideological universe in disarray**. For policy analysis to have any political impact under such conditions, it should **be able somehow to continue 'speaking truth' to political elites** who are ideologically uprooted, but cling to power; to the elites of administrators, managers, professionals and experts who vie for power in the jungle of organisations populating the functional policy domains of post-parliamentary democracy; and to a broader audience of an ideologically disoriented and politically disenchanted citizenry.

**Third is incrementalism good**

**Emancipatory politics must be methodical, incremental, and committed to process. Failure to do so in favor of a radical politics destroys value to life and risks extinction**

**Dietz 94**

(Mary G. Dietz, Professor of Political Science and Gender Studies Program at Northwestern University, “’THE SLOW BORING OF HARD BOARDS’: METHODICAL THINKING AND THE WORK OF POLITICS”, American Political Science Review, Vol. 88, No. 4 December 1994, <http://www.jstor.org/stable/pdfplus/2082713.pdf>)

We do disservice to these moments of Arendtian action, however (and hence to politics itself) if we stake acting together solely on "sheer momentum" or the "spontaneity" of rare movements that burst out against the dark backdrop of modernity. To render as truly political only events that are public, spontane- ous, and momentous is to underestimate the full complexity (and sometimes the brutality)30 of human conduct in such events themselves-to see them, as Vaclev Havel puts it, "from the outside" and perhaps "chiefly from the vantage point of the system and its power structure" (1985, 49). Charter 77 "came as a surprise" and appeared as a "bolt out of the blue", but, as Havel reminds us, it was neither a bolt out of the blue nor the result of a spontaneous political event. Its initial impetus was a small protest against the impending trial of the rock group The Plastic People of the Universe, whose music displeased the communist authorities. The protest began with a campaign planned in detail and with "modest, internal steps" that culminated in the signing of a petition by 70 people (Havel 1990, 130-38). The action group Charter 77 eventually emerged out of the opposition circles that the campaign for The Plastics had informally organized. As a document, the charter took form slowly during the late months of 1976, not in the merciless glare of the public but in what Havel calls "that semi-darkness where things are difficult to chart or analyse" (1985, 49). Its history has as much to do with the laborious organization of meetings, the meticulous crafting of language, the arduous collection of signatories, and the repeated drafting of copies of the original document as with the "explosion" that followed its release in the public realm. Even then, as Havel understands it, the charter was neither a "one-shot manifesto" nor by any means a prepolitical act of legislation but rather a commitment "to participate in ongoing work" (1990, 139). Like Havel and in the spirit of Arendt's instruction that we must "think what we are doing," I have been thinking about what it means to consider politics as a kind of ongoing, methodical work in the world. I raise the example of Charter 77 not to diminish the beauty of an Arendtian politics of spontaneity but in order to propose a public realm theory that is better able to coordinate political action as purposeful and hence open to a broader range of significance "in the whole way of life" (Weber 1946, 77). In thinking about the same sort of things, Havel warns that the global automatism of technological civilization poses a "planetary challenge" to the position of human beings in the world (1985, 90). If he is right, then those of us who take the project of emancipation seriously must do no less than face the challenge with all the means at our disposal and endeavor, in Simone Weil's words, "to introduce a little play into the cogs of the machine that is grinding us down" (1973, 121). As citizens, in other words, we must think methodically about what is to be done.

**Attempts to influence policy from outside of the state fails - only working within institutions can create productive change**

**Silverstein ’02** (Marc, Anarchist Communitarian Network, “Breaking Free of the Protest Mentality”, 4-25,

<http://site.www.umb.edu/faculty/salzman_g/Strate/Discus/2002-04-25Silverstein.htm>)

But it seems that if a "movement" is going to be built, it needs a rational, comprehensive, holistic analysis of the current situation, and a **fleshed-out, detailed, practical strategy** to achieve whatever it is that happens to be its goals. The means must be consistent with the ends. This analysis and strategy would give direction to a movement and would act as a vehicle for personal and social transformation. What is alarming is the complete lack of any serious analysis or strategy, or even any concern over a lack of analysis or strategy, and the crowd's willingness, even eagerness to shout slogans, hold signs, and regurgitate the rhetoric of the speakers. Estimates for this march were put at 10-15,000 by the mainstream media and 75-100,000 by the independent media (both of whom exaggerate numbers to serve their particular agenda). Regardless, the march was in the tens of thousands. It seems that 50,000 people would be able to gather together and deliberate on a grassroots level, based on free association, through networks of affinity groups and spokes-councils, their strategic and organizational **plan of action**. Instead, those same 50,000 people chose to walk around as an amorphous mass, chanting, holding signs, letting the government know how bad and inhuman it is and how it should stop funding murderous states, and basically putting themselves in a humiliating position of powerlessness. Protestors are in the classic role of "protestors", people with no real power over their lives so they must demand it from the ruling class. Demonstrations also point to a lack of creativity; the only thing we can come up with is playing the song and dance of our rulers. How much longer will these protests go on for? If we could only get a few more tens of thousands to protest, will we be successful in overthrowing capitalism, the state and wage-slavery? Why do the state, capitalism and wage-slavery exist, why do the governments of the U.S. and Israel do what they do, and what are we actually going to do about it? One of the speakers, from a Muslim rights group, appealed to President Bush to warn Ariel Sharon that if he doesn't stop his war crimes, then immediate action will be taken. It is unbearably painful to witness such utter naivety. It is quite apparent that genocide and "war crimes" are normal functions of any state, that they are not doing anything irresponsible. The state will do anything to maintain its power, whether legal or illegal. Leftists and progressives point out that Israel has violated the Geneva Convention, and that their activity is "illegal". By accepting the false dichotomy of "legal"/"illegal" we are accepting their frame of reference and their world-view. We are viewing the situation from a liberal, idealistic perspective, of how the state is supposed to behave. Radicals and revolutionaries over a hundred years ago recognized the essential purpose of the state and capitalism, they weren't fooled by it, and they weren't sucked in by reformism. It seems we are a long way to go to reach the same logical conclusions that were reached in the 1870s! There seems to be a lack of prefigurative politics, or even an understanding of what that means. Prefigurative politics is based on the notion that the "future society" is how we act in the present, what kinds of interactions, processes, structures, institutions, and associations we create right now, and how we live our lives. The notion that we just need more people, more resources, and more money to be channeled into these protests is utterly naïve, because it mistakes the problem as being quantitative, when in fact it is qualitative. The qualitative component deals with how we treat each other, the quality of people's lives, meeting individual wants and preferences, strengthening our ability to clearly and honestly communicate with each other our concerns, needs, feelings, and requests, in the context of a small-scale face-to-face environment. On the other hand, protests are mostly concerned with numbers, masses, and large, bureaucratized organizations, concerns which all too often ignore the crucial individual and inter-personal aspects. The protests against the G-8 conference last July in Genoa, Italy included up to 200,000 demonstrators, yet the only outcomes of the protest were a militarized police state bordering on fascism (or perhaps fascist), one dead, and many imprisoned and seriously injured. The strategy of protest doesn't seem to be getting us anywhere, so it is a wonder why people continue to engage in this failed tactic. If a methodology is proven time and time again of not being successful, then the rational response would be to critically examine the inadequacies of the unsuccessful methodology, and creatively and collectively think up and experiment with new methodologies. The few instances when these mass demonstrations are critiqued, they are rarely ever rejected in toto; instead the solution is to have protests on the level of local communities and neighborhoods, rather than mass convergences to large cities. Their argument is that this would bridge the gap between activists and "regular people" and get more people active and radicalized in their local communities, and to have a more secure base of resistance. But the size of the protests are not the real problem, the real problem is the protest mentality itself, which remains qualitatively the same whether it's in a working-class neighborhood or in a major city. Most of the corporate media reported that the protests were overwhelmingly "peaceful", and many of the protestors were quite content with this. Both sides accept the dichotomy of "peaceful"/"violent", just as they accept the dichotomy of "legal"/"illegal". This traps them into a moralistic, Statist mindset. Even the militant black bloc in past protests has never failed to mention that "property destruction is not violence", which indicates that they still accept this basic duality. The media are our enemy, their interests are antithetical to ours, and to hope for any kind of "positive coverage" is pie in the sky. We should not be surprised if the police beat and arrest us, if the media defame us, and if the general public hate us. That is to be expected, and we should start to recognize this and move on. There doesn't seem to be so much a "movement" as there is a collection of divergent tendencies and ideologies, many of them incompatible with each other. With every protest, there has been very little attention to what we hope to achieve, and the claim that all protests, demonstrations, marches and rallies are useless and counter-productive is a new and shocking concept for most activists. The reason that the vast majority of "ordinary people" view us with fear and contempt is because we have nothing to offer them. The power of capitalism and the State does not exist in the streets, in blocking and shutting down major intersections. It exists in the everyday lives of people, more specifically: in their homes, workplaces, and communities. If we don't work on creating **practical alternatives** to the capitalist system, then it is no wonder most people won't join us - we don't offer them anything, and our petty squabbles are totally irrelevant to their lives. The strategy I propose is of creating spheres of autonomy and self-sufficiency based on free association and common preference finding: bolos, temporary and permanent autonomous zones, counter-institutions, popular assemblies (see: http://www.ipsnews.net/interna.asp?idnews=8614 for a contemporary example), small-scale decentralized agriculture, community gardens en masse, guilds, kibbutzes, worker-owned cooperatives, squats, local barter clubs (which have been popping up throughout parts of Argentina, see: http://www.infoshop.org/inews/stories.php? story=02/03/02/5676701, communist stores (based on the principle of "take what you need, donate what you can"), co-housing, urban and rural intentional communities, alternative and sustainable technology, computer-linked networks for co-ordinating and making decisions on a large-scale basis. Computer-linked networks may in fact supercede entirely the need for popular assemblies. The reason that creating these types of anti-authoritarian structures is a much more worthwhile strategy than protest and direct confrontation with the State is because it hits the State and capitalism where it hurts. Food Not Bombs, Independent Media Centers, micro-radio and the like are also important, but they don't provide people with food, clothing, and housing - that is, the real necessities of life. The Black Panthers' Party in the 1960s and 70s set up free breakfast and lunch programs for neighborhood kids, community medical clinics, and self-defense classes. The fact that these counter-institutions triggered so much State repression, sometimes more so than armed struggle, shows how effective and threatening they were to the State. Keith Preston, in "Anarchism or Anarcho-Social Democracy?", writes: "Strategically, we need to follow the example of the most successful anarchist forces of all time- the Spanish anarchist revolutionaries. Our revolutionary agenda should be to develop an alliance of community organizations, unions, cooperatives, enterprises, service organizations, youth clubs, study groups and other popular associations". What I've sketched above are just a few outlines of a strategy, described abstractly, which embodies the kind of direction I think we should be going in. The protest mentality is getting us nowhere, it is a strategy of powerlessness - it is not "what democracy looks like". If we are serious about doing away with this rotten system and living in a new way, we have to know what it is that we don't want, **what it is we do want, and how to go about getting what we want.** What we need is a new, radical, concrete, utopian praxis, free of the failed methodologies of Leftism, activism and protest.

### 1NC

#### Exec flexibility on detention powers now

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President Obama signed the NDAA "despite having serious reservations with certain provisions that regulate the detention, interrogation, and prosecution of suspected terrorists." n114 While the Administration voiced concerns throughout the legislative process, those concerns were addressed and ultimately resulted in a bill that preserves the flexibility needed to adapt to changing circumstances and upholds America's values. The President reiterated his support for language in Section 1021 making clear that the new legislation does not limit or expand the scope of Presidential authority under the AUMF or affect existing authorities "relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States." n115¶ The President underscored his Administration "will not authorize the indefinite military detention without trial of American citizens" and will ensure any authorized detention "complies with the Constitution, the laws of war, and all other applicable law." n116 Yet understanding fully the Administration's position requires recourse to its prior insistence that the Senate Armed Services Committee remove language in the original bill which provided that U.S. citizens and lawful resident aliens captured in the United States would not be subject to Section 1021. n117 There appears to be a balancing process at work here. On the one hand, the Administration is in lock-step with Congress that the NDAA should neither expand nor diminish the President's detention authority. On the other hand, policy considerations led the President to express an intention to narrowly exercise this detention authority over American citizens.¶ The overriding point is that the legislation preserves the full breadth and depth of detention authority existent in the AUMF, to include the detention of American citizens who join forces with Al Qaida. This is a dynamic and changing conflict. If a home-grown terrorist destroys a U.S. target, the FBI gathers the evidence, and a U.S. Attorney prosecutes, traditional civilian criminal laws govern, and the military detention authority resident in the NDAA need never come into play. This is a reasonable and expected outcome in many cases. The pending strike on rail targets posited in this paper's introduction, where intelligence sources reveal an inchoate attack involving American and foreign nationals operating overseas and at home, however, may be precisely the type of scenario where military detention is not only preferred but vital to thwarting the attack, conducting interrogations about known and hidden dangers, and preventing terrorists from continuing the fight.

#### The aff constrains us war powers would uniquely decimate Obama and the military’s ability to calm alliances and deter enemies ---- makes terrorism and global nuclear war more likely

WAXMAN 2013 - law professor at Columbia Law School, co-chairs the Roger Hertog Program on Law and National Security (Matthew Waxman, “The Constitutional Power to Threaten War,” August 27, 2013, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777)

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they may constrain U.S. actions but because they may send signals and shape other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision that the “collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case reflects the broad constitutional discretion presidents now have to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war are not just expansive but largely beyond Congress’s authority to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the diplomatic weapon is the possibility of dissidence at home which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms. Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … are matters of presidential competence. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military action – endowed with what Alexander Hamilton called “[d]ecision, activity, secrecy, and dispatch”116 – best protects American interests. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region.

Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more immediate and informed impact on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – provides more information to adversaries regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175 As applied to strategies of threatened force, generally under these proposals the President would lack authority to make good on them unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued: In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the *most* important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

### Case

#### Your author concedes that we cannot abandon security in totality – your approach is too broad and fails to acknowledge real threats that sometimes need to be constructed outside of discussions about immigration policy AND the impact is too ambiguous

Martin, your author, 12, Lauren Martin, Academy of Finland Postdoctoral Researcher in Geography, Department of Geography, “Review essay: Detaining noncitizens: law, security, crime, and politics - A review of Immigration detention: law, history, politics by D Wilsher,” 2012, Environment and Planning D: Society and Space, volume 30, pages 748 – 755, doi:10.1068/d3004rev,
[http://www.envplan.com/openaccess/d3004rev.pdf](http://www.envplan.com/openaccess/d3004rev.pdf%29)

Beyond his account of judicial debates over the state‘s ability to regulate transboundary mobility, Wilsher provides an internal critique of liberal legal thought. He argues that liberal critiques of punitive immigration detention policies have failed because, in arguing against the securitization of immigration policy, they do not take security itself seriously. This oversight leaves too much ground to realist and geopolitical framings of immigration that understand immigration detention as a function of states’ power to declare war and suspend civil rights in times of crisis. Taking security seriously, for Wilsher, means allowing for the existence of occasional ‘real threats’, but treating immigration generally as a regular, everyday social policy issue, appropriately addressed through the constitutional frameworks in place in receiving countries. This approach would allow state officials to continue to detain high-risk migrants, but release the low-risk migrants who constitute the vast majority of the detention population in the countries he analyzes. It is unclear, however, what constitutes in/security or ‘real threat’ and how they are measured in the context of immigration enforcement cases. At various points in the text, Wilsher implies a close symmetry between ‘politics’, ‘security’, and nonjudicial policy making. Thus his vague conceptualization of security cannot account for the performative value of these punitive spectacles for states (Andreas, 2000) nor detention’s disciplinary and social control functions (Coleman, 2008; Martin, 2012). He is therefore unable to take seriously what immigration’s securitization makes possible for executive decision makers and politicians.

THERE IS ZERO RISK OF SOLVENCY – MANDATE OF THE PLAN TEXT IS TO INVALIDATE ARTICLE 241.14 OF TITLE 8 CODE.

Failure to overturn *Clark v Martinez* and/or *Zadvydas v Davis* means that the legal basis, determined by the court, to detain immigrants is still upheld.

#### Civilian trials are rigged- the State gets the results it wants – due process won’t solve

Silverglate 10-6-13 [Harvey Silverglate, a Boston criminal defense and civil liberties lawyer, is the author, most recently, of "Three Felonies a Day: How the Feds Target the Innocent" (Encounter Books, updated second edition 2011), “How Prosecutors Rig Trials by Freezing Assets,” <http://online.wsj.com/article/SB10001424127887324110404578630561814823892.html>]

On Oct. 16, the Supreme Court will hear oral arguments on a claim brought by husband and wife Brian and Kerri Kaley. The Kaleys are asking the high court to answer a serious and hotly contested question in the federal criminal justice system: Does the Constitution allow federal prosecutors to seize or freeze a defendant's assets before the prosecution has shown at a pretrial hearing that those assets were illegally obtained?¶ Such asset freezes often prevent a defendant from hiring the trial counsel of his choice to mount a vigorous defense, thus increasing the likelihood of the government extracting a guilty plea or verdict. Because asset forfeiture almost automatically follows conviction, a pretrial freeze ultimately enables the Justice Department to grab the frozen assets for use by executive-branch law enforcement agencies. It is a neat, vicious circle. What crimes are the Kaleys charged with? Kerri Kaley was a sales representative for a subsidiary of Johnson & Johnson JNJ +1.90% . Beginning in 2005, the fedsin Florida investigated her, her husband Brian, and other sales reps for reselling medical devices given to them by hospitals. The hospitals had previously bought and stocked the devices but no longer needed or wanted the overstock since the company was offering new products. Knowing that the J&J subsidiary had already been paid for the now-obsolete products and was focused instead on selling new models, the sales reps resold the old devices and kept the proceeds.¶ The feds had various theories for why this "gray market" activity was a crime, even though prosecutors could not agree on who owned the overstocked devices and, by extension, who were the supposed victims of the Kaleys' alleged thefts. The J&J subsidiary never claimed to be a victim.¶ The Kaleys were confident that they would prevail at trial if they could retain their preferred lawyers. A third defendant did go to trial with her counsel of choice and was acquitted. But the Justice Department made it impossible for the Kaleys to pay their chosen lawyers for trial.¶ The government insisted that as long as the Kaleys' assets—including bank accounts and their home—could be traced to the sale of the medical devices, all of those assets could be frozen. The Kaleys were not allowed to go a step further and show that their activities were in no way criminal, since this would be determined by a trial. But the Kaleys insisted that if the government wanted to freeze their funds, the court had to hold a pretrial hearing on the question of the legality of how the funds were earned.¶ The Kaleys complained that the asset freeze effectively deprived them of their Sixth Amendment right to the counsel of their choice—the couple couldn't afford to hire the defense that they wanted. Prosecutors and the trial judge responded that the Kaleys could proceed with a public defender. This wouldn't have been an encouraging prospect for them, for while public counsel is often quite skilled, such legal aid wouldn't meet the requirements the Kaleys believed they needed for this complex defense. Choice of counsel in a free society, one would think, lies with the defendant, not with the prosecutor or the judge. (The Kaleys' chosen trial lawyers have agreed to stick with the case during the pretrial tussling over the asset-freeze question, but trying the case before a jury would be much more expensive and would require the frozen funds.)¶ Federal asset-forfeiture statutes like the one the Kaleys are fighting are actually a relatively recent invention. Before 1970, when Congress adopted the first provisions seeking to strip organized-crime figures of ill-gotten racketeering gains, there were no such laws (with the exception of the Civil War-era Confiscation Acts providing for the forfeiture of property of Confederate soldiers).¶ Since 1970, however, such federal statutes have expanded to cover a breathtaking number of crimes, from the sale of fraudulent passports and contraband cigarettes right up to murder and drug trafficking. An authoritative treatise, the 4th edition of the encyclopedia "Federal Practice & Procedure," asserts that federal forfeiture is now available "for almost every crime." In January, the New York Times quoted Manhattan U.S. Attorney Preet Bharara as saying that asset forfeiture is "an important part of the culture" and "an example of the government being efficient and bringing home the bacon." In 2012 alone, federal prosecutors seized more than $4 billion in assets. The Justice Department is allowed by law to put that bacon to use however prosecutors wish—to pay informants, provide snazzy cars to cooperating witnesses, whatever.¶ The Kaleys are hardly alone. The recently completed prosecution of Conrad Black indicates starkly how such seizures can torpedo a defendant's chance of getting a fair trial. In his 2007 high-profile case, Mr. Black, a former newspaper publisher indicted for alleged fraud and related crimes in the sale of Hollinger International, endured a federal freeze of his major unencumbered asset, the cash proceeds from the sale of his New York City apartment. That freeze prevented him from being able to retain the legal counsel upon whom he had relied before the asset freeze.¶ Mr. Black ultimately was convicted on two counts, winning on all the others in a shifting array of counts that numbered more than a dozen. Last year, having served his 42-month prison sentence, he filed a petition in federal court seeking to vacate his convictions on the ground that the government's asset-forfeiture tactics had deprived him of his counsel of choice. That effort foundered when the judge concluded that Mr. Black's trial counsel—not his counsel of choice, it must be noted, but rather the counsel he could afford after the asset freeze—had failed to properly raise and hence preserve the issue for later appellate review.¶ The Supreme Court has now threatened to upset the game that is so lucrative for the government and disabling for defendants. On March 18, the court agreed to consider the Kaleys' claim that the asset freeze without a hearing on the merits of the underlying criminal charge violated their constitutional rights. At oral argument in mid-October, the broader question will be whether, after four decades of federal asset seizures, the high court will put a freeze on the Justice Department.

## 2NC

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

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

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

**Attempts to influence policy from outside of the state fails - only working within institutions can create productive change**

**Silverstein ’02** (Marc, Anarchist Communitarian Network, “Breaking Free of the Protest Mentality”, 4-25,

<http://site.www.umb.edu/faculty/salzman_g/Strate/Discus/2002-04-25Silverstein.htm>)

But it seems that if a "movement" is going to be built, it needs a rational, comprehensive, holistic analysis of the current situation, and a **fleshed-out, detailed, practical strategy** to achieve whatever it is that happens to be its goals. The means must be consistent with the ends. This analysis and strategy would give direction to a movement and would act as a vehicle for personal and social transformation. What is alarming is the complete lack of any serious analysis or strategy, or even any concern over a lack of analysis or strategy, and the crowd's willingness, even eagerness to shout slogans, hold signs, and regurgitate the rhetoric of the speakers. Estimates for this march were put at 10-15,000 by the mainstream media and 75-100,000 by the independent media (both of whom exaggerate numbers to serve their particular agenda). Regardless, the march was in the tens of thousands. It seems that 50,000 people would be able to gather together and deliberate on a grassroots level, based on free association, through networks of affinity groups and spokes-councils, their strategic and organizational **plan of action**. Instead, those same 50,000 people chose to walk around as an amorphous mass, chanting, holding signs, letting the government know how bad and inhuman it is and how it should stop funding murderous states, and basically putting themselves in a humiliating position of powerlessness. Protestors are in the classic role of "protestors", people with no real power over their lives so they must demand it from the ruling class. Demonstrations also point to a lack of creativity; the only thing we can come up with is playing the song and dance of our rulers. How much longer will these protests go on for? If we could only get a few more tens of thousands to protest, will we be successful in overthrowing capitalism, the state and wage-slavery? Why do the state, capitalism and wage-slavery exist, why do the governments of the U.S. and Israel do what they do, and what are we actually going to do about it? One of the speakers, from a Muslim rights group, appealed to President Bush to warn Ariel Sharon that if he doesn't stop his war crimes, then immediate action will be taken. It is unbearably painful to witness such utter naivety. It is quite apparent that genocide and "war crimes" are normal functions of any state, that they are not doing anything irresponsible. The state will do anything to maintain its power, whether legal or illegal. Leftists and progressives point out that Israel has violated the Geneva Convention, and that their activity is "illegal". By accepting the false dichotomy of "legal"/"illegal" we are accepting their frame of reference and their world-view. We are viewing the situation from a liberal, idealistic perspective, of how the state is supposed to behave. Radicals and revolutionaries over a hundred years ago recognized the essential purpose of the state and capitalism, they weren't fooled by it, and they weren't sucked in by reformism. It seems we are a long way to go to reach the same logical conclusions that were reached in the 1870s! There seems to be a lack of prefigurative politics, or even an understanding of what that means. Prefigurative politics is based on the notion that the "future society" is how we act in the present, what kinds of interactions, processes, structures, institutions, and associations we create right now, and how we live our lives. The notion that we just need more people, more resources, and more money to be channeled into these protests is utterly naïve, because it mistakes the problem as being quantitative, when in fact it is qualitative. The qualitative component deals with how we treat each other, the quality of people's lives, meeting individual wants and preferences, strengthening our ability to clearly and honestly communicate with each other our concerns, needs, feelings, and requests, in the context of a small-scale face-to-face environment. On the other hand, protests are mostly concerned with numbers, masses, and large, bureaucratized organizations, concerns which all too often ignore the crucial individual and inter-personal aspects. The protests against the G-8 conference last July in Genoa, Italy included up to 200,000 demonstrators, yet the only outcomes of the protest were a militarized police state bordering on fascism (or perhaps fascist), one dead, and many imprisoned and seriously injured. The strategy of protest doesn't seem to be getting us anywhere, so it is a wonder why people continue to engage in this failed tactic. If a methodology is proven time and time again of not being successful, then the rational response would be to critically examine the inadequacies of the unsuccessful methodology, and creatively and collectively think up and experiment with new methodologies. The few instances when these mass demonstrations are critiqued, they are rarely ever rejected in toto; instead the solution is to have protests on the level of local communities and neighborhoods, rather than mass convergences to large cities. Their argument is that this would bridge the gap between activists and "regular people" and get more people active and radicalized in their local communities, and to have a more secure base of resistance. But the size of the protests are not the real problem, the real problem is the protest mentality itself, which remains qualitatively the same whether it's in a working-class neighborhood or in a major city. Most of the corporate media reported that the protests were overwhelmingly "peaceful", and many of the protestors were quite content with this. Both sides accept the dichotomy of "peaceful"/"violent", just as they accept the dichotomy of "legal"/"illegal". This traps them into a moralistic, Statist mindset. Even the militant black bloc in past protests has never failed to mention that "property destruction is not violence", which indicates that they still accept this basic duality. The media are our enemy, their interests are antithetical to ours, and to hope for any kind of "positive coverage" is pie in the sky. We should not be surprised if the police beat and arrest us, if the media defame us, and if the general public hate us. That is to be expected, and we should start to recognize this and move on. There doesn't seem to be so much a "movement" as there is a collection of divergent tendencies and ideologies, many of them incompatible with each other. With every protest, there has been very little attention to what we hope to achieve, and the claim that all protests, demonstrations, marches and rallies are useless and counter-productive is a new and shocking concept for most activists. The reason that the vast majority of "ordinary people" view us with fear and contempt is because we have nothing to offer them. The power of capitalism and the State does not exist in the streets, in blocking and shutting down major intersections. It exists in the everyday lives of people, more specifically: in their homes, workplaces, and communities. If we don't work on creating **practical alternatives** to the capitalist system, then it is no wonder most people won't join us - we don't offer them anything, and our petty squabbles are totally irrelevant to their lives. The strategy I propose is of creating spheres of autonomy and self-sufficiency based on free association and common preference finding: bolos, temporary and permanent autonomous zones, counter-institutions, popular assemblies (see: http://www.ipsnews.net/interna.asp?idnews=8614 for a contemporary example), small-scale decentralized agriculture, community gardens en masse, guilds, kibbutzes, worker-owned cooperatives, squats, local barter clubs (which have been popping up throughout parts of Argentina, see: http://www.infoshop.org/inews/stories.php? story=02/03/02/5676701, communist stores (based on the principle of "take what you need, donate what you can"), co-housing, urban and rural intentional communities, alternative and sustainable technology, computer-linked networks for co-ordinating and making decisions on a large-scale basis. Computer-linked networks may in fact supercede entirely the need for popular assemblies. The reason that creating these types of anti-authoritarian structures is a much more worthwhile strategy than protest and direct confrontation with the State is because it hits the State and capitalism where it hurts. Food Not Bombs, Independent Media Centers, micro-radio and the like are also important, but they don't provide people with food, clothing, and housing - that is, the real necessities of life. The Black Panthers' Party in the 1960s and 70s set up free breakfast and lunch programs for neighborhood kids, community medical clinics, and self-defense classes. The fact that these counter-institutions triggered so much State repression, sometimes more so than armed struggle, shows how effective and threatening they were to the State. Keith Preston, in "Anarchism or Anarcho-Social Democracy?", writes: "Strategically, we need to follow the example of the most successful anarchist forces of all time- the Spanish anarchist revolutionaries. Our revolutionary agenda should be to develop an alliance of community organizations, unions, cooperatives, enterprises, service organizations, youth clubs, study groups and other popular associations". What I've sketched above are just a few outlines of a strategy, described abstractly, which embodies the kind of direction I think we should be going in. The protest mentality is getting us nowhere, it is a strategy of powerlessness - it is not "what democracy looks like". If we are serious about doing away with this rotten system and living in a new way, we have to know what it is that we don't want, **what it is we do want, and how to go about getting what we want.** What we need is a new, radical, concrete, utopian praxis, free of the failed methodologies of Leftism, activism and protest.

**Our method is empirically successful and spills over**

**Horowitz 10**, Michael, assistant professor of political science at the University of Pennsylvania, “Debating Debate Club,” Entry 5, August 20th, http://www.slate.com/articles/arts/the\_book\_club/features/2010/debating\_debate\_club/can\_debate\_save\_the\_world\_or\_does\_it\_just\_help\_you\_get\_into\_a\_better\_college.html

As for your point about policy debate being hermetically sealed, consider this: The debaters who actually go into their communities and encourage more public dialogue are the policy debaters. They founded the National Association of Urban Debate Leagues, which serves more than 500 schools around the country. Peer-reviewed research shows that participating has helped more than 40,000 inner-city students improve their grades, graduate from high school, and attend college. Policy debaters go to Washington, D.C., and conduct accessible public debates for lay audiences about many topics, including nuclear weapons and environmental policy. They work with prison populations in Georgia and New York as a means of enfranchising those voices. They teach public speaking to kids of all ages in Jamaica, Malaysia, and South Korea. The middle-school policy debate program in the Atlanta Housing Authority has been recognized by the Bureau of Justice Administration as a potential national model for reducing gang participation among inner-city youth. The policy debate community makes these things happen because it believes that more students equipped with speaking and research skills is a good thing, that more **knowledge about** current events and **political decisions is a powerful weapon**, and that these benefits shouldn't be restricted to those who are already in positions of privilege.

#### Defending the state is a form of active praxis which can create social change

Susan D. Carle, Dec. 2005, “Theorizing Agency,” 55 Am. U.L. Rev. 307, p ln

Precisely because he believed in the power of human agency, Dewey devoted a great deal of his writing to developing prescriptions for change in response to the issues of his times. It is worth quickly surveying some of those prescriptions here because they help illuminate the relationship between Dewey's theory of the self and his [\*361] overall philosophic system. Dewey's deliberative theory ties elegantly into his theory of democracy, which in turn displays an ascetically pleasing "fit" 274 with his pedagogical vision. Dewey's political theory is a large topic, to which he devoted much writing but to which I can give only passing attention. Suffice it to say that Dewey passionately believed in the virtues of democracy; indeed, Dewey scholars have described democracy as Dewey's deepest preoccupation - the underlying passion that motivated him in his prolific output. 275 Unlike philosophers such as John Rawls, however, Dewey uncoupled democracy from the institutions of Western capitalism, and was intensely critical of capitalism as he saw it developing in his lifetime. To Dewey, capitalism spelled economic inequality, which was anathema to his vision of democracy based in local deliberative processes. 276 Dewey saw education as the process through which children would acquire the habits that would allow them to become members of a democracy, well equipped for the kind of reflective thought and deliberation that democracy required. 277 Thus, education was for Dewey a fundamental method of social progress and reform. 278 For this reason, Dewey, unlike most modern philosophers, gave pedagogy a central place in his philosophy. Dewey saw education as the scientific laboratory in which the ideas of pragmatism would be put to the test of experience. 279 To Dewey, the ability to engage in good [\*362] deliberative judgment - to exercise clear foresight on ethical as well as instrumental matters - was a habit that could and should be cultivated through education. Thus Dewey thought that education should not be a "succession of studies but the development of new attitudes towards, and new interests in, experience." 280 No relativist on matters concerning his own place and time, Dewey denounced the "inert stupid quality of current customs," which "perverts learning into a willingness to follow where others point the way, into conformity, constriction, surrender of scepticism and experiment." 281 In lieu of teaching to new generations habits that represent such "enslavement to old ruts," 282 Dewey wanted to inculcate better habits - "flexible, sensitive" ones that could grow "more varied, more adaptable by practice and use." 283 These, in turn, were the habits Dewey identified as necessary for democracy to succeed. Here, the contrasts with Stanley Fish are stark. Fish, as we have seen, argues that teaching methods of critical analysis to students does not change practice outside the classroom. 284 Practice in the world outside the classroom and the doing of theory proceed on two unrelated planes. Dewey, conversely, repudiated the separation of theory and practice as a false dualism, arguing that those who espouse theory for theory's sake are in fact espousing "two kinds of practice." 285 Moreover, he argued, "those who wish a monopoly of social power find desirable the separation of habit and thought" because this "dualism enables them to do the thinking and planning, while others remain the docile ... instruments of execution." 286 Thus, for Dewey, theory was a form of practice in the world that had great potential to fuel political and social change, and the decision to do and teach theory as a practice separate from political and social issues was a political decision with particular normative [\*363] consequences - namely, the promotion of political disengagement and apathy. 287

**Debate is a question of skills not content – voting aff wont magically change anything so we should maximize the time we have together**

Strait and Wallace ‘7 (Strait, L. Paul, George Mason University and Wallace, Brett, George Washington University, “The Scope of Negative Fiat and the Logic of Decision Making”, Policy Cures? Health Assistance to Africa, Debaters Research Guide)

Negative claims that excluding critical alternatives is detrimental to education fail to be persuasive when decision-making logic is taken into account. Critical intellectuals and policymakers both take into account the probability that their actions will be successful. Fiating that individuals alter their method of thinking circumvents these questions of probability and thus not only destroys education about policymaking, but offers a flawed approach to activism (or any other purview of action/ philosophy the negative is advocating). Intellectuals and activists have many important considerations relating to resources, press coverage, political clout and method. These questions all are directly related to who is taking action. Alternative debates thus often become frustrating because they do a poor job of explaining who the subject is. Consider the popular Nietzschean alternative, ‘do nothing.” Who is it that the negative wants to do nothing? Does the USFG de nothing? Is it the debaters? Is it the judge who does nothing? Is it every individual, or just individuals in Africa that have to do with the affirmative harm area? All of these questions directly implicate the desirability of the alternative, and thus the education that we can receive from this mode of debate. Alternatives like “vote negative to reject capitalism,” “detach truth from power.” or ‘embrace an infinite responsibility to the other" fall prey to similar concerns. This inability to pin the negative down to a course of action allows them to be shifty in their second rebuttal, and sculpt their alternative in a way that avoids the affirmative’s offense. Rather than increasing education, critical frameworks are often a ruse that allows the negative to inflate their importance and ignore crucial decision-making considerations. Several other offensive arguments can be leveraged by the affirmative in order to insulate them from negative claims that critical debate is a unique and important type of education that the affirmative excludes. The first is discussed above, that the most important benefit to participation in policy debate is not the content of our arguments, but the skills we learn from debating. As was just explained, since the ability to make decisions is a skill activists and intellectuals must use as well, decision- making is a prerequisite to effective education about any subject. The strength of this argument is enhanced when we realize that debate is a game. Since debaters are forced to switch sides they go into each debate knowing that a non-personal mindset will be necessary at some point because they will inevitably be forced to argue against their own convictions. Members of the activity are all smart enough to realize that a vote for an argument in a debate does not reflect an absolute truth, but merely that a team making that argument did the better debating. When it comes to education about content, the number of times someone will change their personal convictions because of something that happens in a debate round is extremely low, because everyone knows it is a game. On the other hand with cognitive skills like the decision-making process which is taught through argument and debate, repetition is vital .The best way to strengthen decision-making’s cognitive thinking skills is to have students practice them in social settings like debate rounds. Moreover, a lot of the decision-making process happens in strategy sessions and during research periods — debaters hear about a particular affirmative plan and are tasked with developing the best response. If they are conditioned to believe that alternate agent counterplans or utopian philosophical alternatives are legitimate responses, a vital teaching opportunity will have been lost.

**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**

**Esberg & Sagan 12** \*Jane Esberg is special assistant to the director at New York University's Center on. International Cooperation. She was the winner of 2009 Firestone Medal, AND \*\*Scott Sagan is a professor of political science and director of Stanford's Center for International Security and Cooperation “NEGOTIATING NONPROLIFERATION: Scholarship, Pedagogy, and Nuclear Weapons Policy,” 2/17 The Nonproliferation Review, 19:1, 95-108

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

**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

**That allows us to influence state policy AND is key to agency**

**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

However, whether as an approach to learning, innovation, persuasion or culture shift, policy simulations derive their power from two central features: their combination of simulation and gaming (Geurts et al. 2007). 1. The simulation element: the unique combination of simulation with role-playing. The unique simulation/role-play mix enables participants to create possible futures relevant to the topic being studied. This is diametrically opposed to the more traditional, teacher-centric approaches in which a future is produced for them. In policy simulations, possible futures are much more than an object of tabletop discussion and verbal speculation. ‘No other technique allows a group of participants to engage in collective action in a safe environment to create and analyse the futures they want to explore’ (Geurts et al. 2007: 536). 2. The game element: the interactive and tailor-made modelling and design of the policy game. The actual run of the policy simulation is only one step, though a most important and visible one, in a collective process of investigation, communication, and evaluation of performance. In the context of a post-graduate course in public policy development, for example, a policy simulation is a dedicated game constructed in collaboration with practitioners to achieve a high level of proficiency in relevant aspects of the policy development process. To drill down to a level of finer detail, policy development simulations—as forms of interactive or participatory modelling— are particularly effective in developing participant knowledge and skills in the five key areas of the policy development process (and success criteria), namely: Complexity, Communication, Creativity, Consensus, and Commitment to action (‘the five Cs’). The capacity to provide effective learning support in these five categories has proved to be particularly helpful in strategic decision-making (Geurts et al. 2007). Annexure 2.5 contains a detailed description, in table format, of the synopsis below

Social science votes negative

Hanghoj 8

Thorkild Hanghøj, Copenhagen, 2008 Since this PhD project began in 2004, the present author has been affiliated with DREAM (Danish Research Centre on Education and Advanced Media Materials), which is located at the Institute of Literature, Media and Cultural Studies at the University of Southern Denmark. Research visits have taken place at the Centre for Learning, Knowledge, and Interactive Technologies (L-KIT), the Institute of Education at the University of Bristol and the institute formerly known as Learning Lab Denmark at the School of Education, University of Aarhus, where I currently work as an assistant professor. <http://static.sdu.dk/mediafiles/Files/Information_til/Studerende_ved_SDU/Din_uddannelse/phd_hum/afhandlinger/2009/ThorkilHanghoej.pdf>

\*\*\*modified gender language

While Dewey focused on the imaginative and creative aspects of play in relation to the school curriculum, his close friend and pragmatist colleague, Mead, concentrated on the social and intersubjective aspects of play and games (Joas, 1996). In this way, Mead developed a comprehensive theory of the *social self*, which assumed that the development of the self was deeply related with social interaction through play, games, language and other forms of communication (Mead, 1934: 150-164). Thus, Mead provides a valuable starting point when trying to understand the social interaction of educational gaming. For Mead, the basic requirement of any form of play is the ability to “take the role of another”, as when children get together to “play Indian” (Mead, 1934: 150). The situation is somewhat different in more organised games, as the participants “must be ready to take the attitude of all the others involved in the game, and that these different roles must have a definite relationship to each other” (Mead, 1934: 151). The point being that the others should not so much be seen as specific individuals, but as other team members or participants in the game. Furthermore, the attitudes of the other players “organize a sort of unit, and it is that organization which controls the response of the individual” (Mead, 1934: 154). This organisation is exemplified in the game of baseball, where all players must coordinate their acts in *response* to the *assumed acts* of the other players. Mead then introduces his famous concept of the generalised other, which describes “the unity of self” given to the individual by his social membership in a community, i.e. on a baseball team (Mead, 1934: 154). Thus, when playing baseball, the participants must be able to take the attitude and perspective of the abstract other of the social group of their baseball team: “The attitude of the generalized other is the attitude of the whole community” (Mead, 1934: 154). Thus, the generalised other is the general notion that a person has of the common expectations that others have about actions and thoughts within a particular society. This means that any time actors try to imagine what is expected of them in relation to a wider social group or community, they are taking on the perspective of the generalised other. Similarly, the generalised other can also be described as “a stage beyond the processes of ‘taking the role of the other’ where the other is another identifiable individual or set of individuals” (Holdsworth & Morgan, 2007: 402). In addition to baseball, Mead offers another interesting example of how an individual can be related to “the generalised other”, which is highly relevant to this study: In politics, for example, the individual identifies himself with an entire political party and takes the organized attitudes of that entire party toward the rest of the given social community and toward the problems which confront the party within the given social situation; and he consequently reacts or responds in terms of the organized attitudes of the party as a whole (Mead, 1934: 156). In this way, Mead’s concept can be used to contextualise the empirical analysis of The Power Game sessions as the students were asked to take on the roles as politicians and thereby identify themselves with the “generalised” relationship between real-life politicians and their political parties.

#### Academic debate regarding war powers makes checks on excessive presidential authority effective---college students key

Kelly Michael Young 13, Associate Professor of Communication and Director of Forensics at Wayne State University, "Why Should We Debate About Restriction of Presidential War Powers", 9/4, public.cedadebate.org/node/13

Beyond its obviously timeliness, we believed debating about presidential war powers was important because of the stakes involved in the controversy. Since the Korean War, scholars and pundits have grown increasingly alarmed by the growing scope and techniques of presidential war making. In 1973, in the wake of Vietnam, Congress passed the joint War Powers Resolution (WPR) to increase Congress’s role in foreign policy and war making by requiring executive consultation with Congress prior to the use of military force, reporting within 48 hours after the start of hostiles, and requiring the close of military operations after 60 days unless Congress has authorized the use of force. Although the WPR was a significant legislative feat, 30 years since its passage, presidents have frequently ignores the WPR requirements and the changing nature of conflict does not fit neatly into these regulations. After the terrorist attacks on 9-11, many experts worry that executive war powers have expanded far beyond healthy limits. Consequently, there is a fear that continued expansion of these powers will undermine the constitutional system of checks and balances that maintain the democratic foundation of this country and risk constant and unlimited military actions, particularly in what Stephen Griffin refers to as a “long war” period like the War on Terror (http://www.hup.harvard.edu/catalog.php?isbn=9780674058286). In comparison, pro-presidential powers advocates contend that new restrictions undermine flexibility and timely decision-making necessary to effectively counter contemporary national security risks. Thus, a debate about presidential wars powers is important to investigate a number of issues that have serious consequences on the status of democratic checks and national security of the United States.¶ Lastly, debating presidential war powers is important because we the people have an important role in affecting the use of presidential war powers. As many legal scholars contend, regardless of the status of legal structures to check the presidency, an important political restrain on presidential war powers is the presence of a well-informed and educated public. As Justice Potter Stewart explains, “the only effective restraint upon executive policy and power…may lie in an enlightened citizenry – in an informed and critical public opinion which alone can protect the values of a democratic government” (http://www.law.cornell.edu/supct/html/historics/USSC\_CR\_0403\_0713\_ZC3.html). As a result, this is not simply an academic debate about institutions and powers that that do not affect us. As the numerous recent foreign policy scandals make clear, anyone who uses a cell-phone or the internet is potential affected by unchecked presidential war powers. Even if we agree that these powers are justified, it is important that today’s college students understand and appreciate the scope and consequences of presidential war powers, as these students’ opinions will stand as an important potential check on the presidency.

## 1NR

### 2NC – Alt – We solve Oppression

#### Alt solves universal consciousness – historicizing the 1AC is the best method to foster organized resistance against capital

VAKIAN 99

(Bob, Chairman of Revolutionary Communist Party, “We Have a New Millenium—What we Need is a New World”, Revolutionary Worker #1036, Dec. 26, p. online: <http://rwor.org/a/v21/1030-039/1036/millenium.htm>)

Will it be the same old, same old--where a small handful continues to control the wealth and knowledge humanity as a whole has created? Where this handful continues to rule over millions and billions, using the most brutal and destructive means to maintain a way of life in which the great majority of humanity is kept in conditions of poverty and wretchedness. Where the institutions of power...the machinery that enforces "law and order"...the customs, traditions, values and ideas with which people are indoctrinated...all serve to keep this kind of system going. Where 40 thousand children die every day in the Third World from starvation and disease that could be prevented or cured. Where the oppressed are treated like dogs and shot down in the streets, or even in their own homes, by the thugs in uniform who "protect and serve" this system. Where discrimination and racism are the rule. Where every day women are insulted and assaulted, and are constantly told it is their "natural role" to be under the domination of "male authority." Where whole peoples and nations are plundered by a few "great powers." Where those who rule over us can unleash massive destruction and war at their command, bringing great suffering to the people and threatening the future of humanity, and this is all justified and glorified as "duty, honor, and righteousness." For another thousand years, will people have to witness the sickening celebration of this as "the best of all possible worlds" and the most humanity can ever hope to achieve? NO. This new millennium will be a time unlike any before in human history. It will be an era in which all of human society will be changed in radically new ways. It will be a world-historical epoch in which there will be the chance, in a way there never has been before, to put an end to oppression, to slavery in every form, in every part of the world. Looking at the world as it is now, as it has been for thousands of years...seeing what the people are caught up in today...HOW CAN ANYONE CONFIDENTLY PROCLAIM THAT THE FUTURE IS BRIGHT, THAT THIS IS WHAT THE NEW MILLENNIUM WILL BRING? AM I DREAMING? YES--BUT THESE DREAMS ARE BASED ON REALITY. Check out history. No empire has lasted forever. Even the mightiest have fallen: the Roman Caesars and their descendants, the Pharaohs of Egypt, the empire of Alexander the Great, the ruling dynasties throughout thousands of years in China, and more recently the empires of the Spanish, Portuguese and others in the Americas. This will also happen to today's empire-rulers, the imperialists, whose system is rooted in the "modern" form of slavery known as capitalism. They may rule over large parts of the world today--and, like the empires of old, they challenge each other for the top-dog position--but they will be brought down. This will be true of the German, the British, the Japanese, the French, the Russian, and other imperialists. And, even though they like to declare that they are invincible and will forever be "all-powerful," this same fate awaits the mightiest of all world powers today, the U.S. imperialists. BUT the BIG QUESTION is: WHAT WILL REPLACE THE RULE OF THESE IMPERIALISTS WHEN THEY FALL? This has everything to do with how these imperialists are brought down--in what way this is achieved and by whom. If, as in the past, empires are overthrown by other empires--if exploiters are brought down to the dust only to have new exploiters arise in their place--then nothing fundamental will change and the masses of people, living under the rule of these imperialists, will not see a new day. BUT that is NOT the only way things can go--that is not the way imperialism will end. There is another road before us--the road of revolutionary struggle to overturn and uproot all imperialists, all systems of exploitation and oppression, to sweep away all their garbage. And that revolutionary struggle will give birth to a new society and a new world without exploitation and oppression. HOW CAN WE KNOW THIS IS POSSIBLE? The reason is that, as a result of thousands of years of historical development and creative activity and struggle by human beings in all parts of the world, a fantastic amount of technology and knowledge has been brought forth. BUT this has taken place through various forms of society in which the few have enslaved the many, in different ways, and have reaped for themselves the benefits of all this development. AND THE PROBLEM TODAY IS THAT, IN THE HANDS OF THE CAPITALIST CLASS THAT RULES OVER US AND STILL CONTROLS HUMANITY'S FATE, THE TREMENDOUS TECHNOLOGY AND KNOWLEDGE THAT IS CREATED CANNOT BE USED FOR THE BENEFIT OF HUMANITY AS A WHOLE AND INSTEAD CAN ONLY SUBJECT THE GREAT MAJORITY OF US TO AGONY AND OPPRESSION. That is a problem for us, yet it is also a problem for THEM, because it makes clear that THIS CLASS OF CAPITALIST EXPLOITERS CANNOT RUN SOCIETY IN THE INTERESTS OF THE PEOPLE. BUT THERE IS A CLASS THAT CAN DO THIS. This class is the proletariat. The proletariat is all of us--of all races and nationalities, in the U.S. and throughout the world--who, under this system, can live only so long as we work, and can work only so long as our work enriches someone else--the capitalist class. Our labor, collectively, is the foundation of society and produces tremendous wealth, but this wealth is stolen by a small number of capitalist exploiters who turn this wealth into their "private property," into a means of further exploiting us. We are trapped in this cycle, where we have to work in order to live but the more we work, the more wealth we create, the more it is stolen and turned into power over us. Acting as individuals, we cannot change this basic condition of enslavement, but as a class we do have a revolutionary way out. Once we have risen up together and thrown off the rule of capital, we can not only free ourselves, we can revolutionize all of society and the world. We can unleash the tremendous creative potential of the masses of people--creative potential that is now wasted, or distorted, or even destroyed under the capitalist-imperialist system. We can take hold of the means to produce and acquire wealth and knowledge, make them the common property of the people and use them to benefit the people and society as a whole. We can transform all of the institutions and relations in society and the culture and ideas so that the common good is promoted and served. This is our world-historic mission. In this, we represent the great majority of the people, and we can lead them to change the world. This can happen--there is a powerful basis for this to happen --because this is the only way the needs and interests of the vast majority of humanity can be met and that humanity can move forward together. And, until this revolution is brought about, the rule of capital will continue to create conditions that force people to rebel against it. As the great communist revolutionary Mao Tsetung put it: wherever there is oppression, there will be resistance. And resistance can and will be transformed into revolutionary struggle, and ultimately revolutionary war, to defeat the forces of oppression on the battlefield, to smash their machinery of oppression, and to create a new system that puts an end to this oppression. No matter how many times this revolutionary struggle may be defeated, or turned back after winning some beginning victories, it will arise again and again until, finally, it triumphs completely and carries out its mission worldwide. Mao Tsetung also powerfully expressed this great truth: Fight, fail; fight again, fail again; fight again...until final victory--that is the logic of the people. Make trouble, fail; make trouble again, fail again...until their doom--that is the logic of the imperialists and all reactionaries. But to make this a reality, the oppressed, and in particular the class of proletarians, must become conscious of this historic revolutionary mission. And those who come to see the need for revolution and are determined to fight for it must be organized as a powerful force at the core of this world-changing struggle. This means that the proletariat must have its own vanguard party. A party that is continually strengthened by sinking its roots and its organization ever more deeply among the proletariat and other oppressed people and by recruiting into the party those who come to the forefront in the revolutionary struggle. A party that is guided by communist ideology, by the scientific world outlook and method that today is called MLM (or Marxism-Leninism-Maoism, after the three greatest leaders of the communist cause so far: Marx, Lenin, and Mao). This ideology of MLM, and only this ideology, represents the proletariat and its revolutionary mission. The MLM party must take up and concretely apply this ideology to solve the practical problems of the revolution.

### Permutation

#### We only need one link to win the debate –gender violence is caused by the relations of production – they mask the root cause of the aff

COTTER 2

(Jennifer, nqa, “War and Domestic Violence”, Red Critique, Sept/Oct)

What actually lies behind these contradictions are historical conditions of necessity in capitalism: the fact that, on the one hand, economic compulsion brought on by exploitation in production drives women to continue to rely on the privatized family even though it is a site of violence and abuse and, on the other hand, the military is itself necessary under capitalism in order to defend private property relations, and specifically the interests of monopoly capitalists, that economically compel workers to rely on the privatized family to begin with. These contradictions are symptomatic of the failure to resolve domestic violence by means of rearranging the social relations of reproduction. Negotiation with the "state" for more resources to help crisis manage the privatized family does not address the root issue of domestic violence. What is needed is freedom from necessity brought on by exploitation. This is because domestic violence is a problem that stems from contradictions in production, which cannot be resolved through the social relations of reproduction. Domestic violence is enabled by the privatized family which itself is a historical necessity under capitalism: workers are economically compelled to rely on it as an economic unit owing to their increasing impoverishment in the social relations of production (the more they produce, the more capital gets concentrated into fewer hands), at the same time they provide a valuable service for capital by absorbing the burden of reproducing labor-power. The contradictions of the family under capitalism, therefore, lead to greater economic and social contradictions for workers, not fewer. Fundamental changes in the relations of reproduction require changes in the relations of production. This is further seen in the fact that, although capital historically necessitates the subordination of relations of reproduction to private ownership of the means of production in order to offset the cost to capital of reproducing labor-power, this use of "cost effective" measures (what Lenin called "clipping coupons") to reserve more of the existing surplus-labor for profit does not stop the crisis in production and the decline in the rate of profit. It reduces the drain on profit, but does not itself resolve the over all decline in the rate of profit. This requires access to new reserves of labor-power from which to extract surplus-labor (through exploitation)—thus reproducing the economic conditions of private property and their ideological effects that enable domestic violence against women. It is not an autonomous "state power" (which locates change in "reproduction") but the social relations of production based on private property that the state is produced in order to maintain, that is the "root cause" of violence against women through warfare and domestic violence. "National security" is an ideological strategy to represent the interests of the ruling class to use imperialist warfare for a greater monopoly over the global surplus-labor, as the general interests of all. Feminism, in order to enable the eradication of domestic violence needs to confront the conditions of exploitation in the social relations of production that necessitate the state, imperialist warfare, and violence against women. Without addressing the emancipation of labor from exploitation (the private appropriation of surplus labor), and freedom of workers from conditions of necessity in capitalism (such as the economic compulsion of workers to rely upon the "privatized family" as an economic unit to survive), women cannot be freed from the conditions that reproduce domestic violence and imperialist warfare.

#### The perm is co-opted into the language of reformism – capital is like a many headed hydra – only totalizing rejection solves

Kovel 2

(Joel, Alger Hiss Prof. At Bard, The Enemy of Nature, Zed Books, p. 142-3)

The value-term that subsumes everything into the spell of capital sets going a kind of wheel of accumulation, from production to consumption and back, spinning ever more rapidly as the inertial mass of capital grows, and generating its force field as a spinning magnet generates an electrical field. This phenomenon has important implications for the reformability of the system. Because capital is so spectral, and succeeds so well in ideologically mystifying its real nature, attention is constantly deflected from the actual source of eco-destabilization to the instruments by which that source acts. The real problem, however, is the whole mass of globally accumulated capital, along with the speed of its circulation and the class structures sustaining this. That is what generates the force field, in proportion to its own scale; and it is this force field, acting across the numberless points of insertion that constitute the ecosphere, that creates ever larger agglomerations of capital, sets the ecological crisis going, and keeps it from being resolved. For one fact may be taken as certain — that to resolve the ecological crisis as a whole, as against tidying up one corner or another, is radically incompatible with the existence of gigantic pools of capital, the force field these induce, the criminal underworld with which they connect, and, by extension, the elites who comprise the transnational bourgeoisie. And by not resolving the crisis as a whole, we open ourselves to the spectre of another mythical creature, the many-headed hydra, that regenerated itself the more its individual tentacles were chopped away. To realize this is to recognize that there is no compromising with capital, no schema of reformism that will clean up its act by making it act more greenly or efficiently We shall explore the practical implications of this thesis in Part III, and here need simply to restate the conclusion in blunt terms: green capital, or non-polluting capital, is preferable to the immediately ecodestructive breed on its immediate terms. But this is the lesser point, and diminishes with its very success. For green capital (or ‘socially/ecologically responsible investing’) exists, by its very capital-nature, essentially to create more value, and this leaches away from the concretely green location to join the great pool, and follows its force field into zones of greater concentration, expanded profitability — and greater ecodestruction.

Reformism DA—Their attempt to circumscribe political change within the realm of the “possible” confines the perm to a “one issue movement” that changes nothing and is incorporated into existing structures of domination

Zizek, 99 (Slavoj, Senior Researcher at the University of Ljubljana, Repeating Lenin <http://www.marxists.org/reference/subject/philosophy/works/ot/zizek1.htm>)

Today, we already can discern the signs of a kind of general unease — recall the series of events usually listed under the name of “Seattle.” The 10 years honeymoon of the triumphant global capitalism is over, the long-overdue “seven years itch” is here — witness the panicky reactions of the big media, which — from the Time magazine to CNN — all of a sudden started to warn about the Marxists manipulating the crowd of the “honest” protesters. The problem is now the strictly Leninist one — how to ACTUALIZE the media’s accusations: how to invent the organizational structure which will confer on this unrest the FORM of the universal political demand. Otherwise, the momentum will be lost, and what will remain is the marginal disturbance, perhaps organized as a new Greenpeace, with certain efficiency, but also strictly limited goals, marketing strategy, etc. In other words, the key “Leninist” lesson today is: politics without the organizational FORM of the [party](http://www.marxists.org/glossary/terms/p/o.htm#political-party) is politics without politics, so the answer to those who want just the (quite adequately named) “[New SOCIAL Movements](http://www.marxists.org/glossary/terms/s/o.htm#social-movement)” is the same as the answer of the Jacobins to the Girondin compromisers: “You want revolution without a revolution!” Today’s blockade is that there are two ways open for the socio-political engagement: either play the game of the system, engage in the “long march through the institutions,” or get active in new social movements, from feminism through ecology to anti-racism. And, again, the limit of these movements is that they are not POLITICAL in the sense of the Universal Singular: they are “one issue movements” which lack the dimension of the universality, i.e. they do not relate to the social TOTALITY. Here, Lenin’s reproach to liberals is crucial: they only EXPLOIT the working classes’ discontent to strengthen their position vis-a-vis the conservatives, instead of identifying with it to the end.[52](http://www.marxists.org/reference/subject/philosophy/works/ot/zizek1.htm#52) Is this also not the case with today’s Left liberals? They like to evoke racism, ecology, workers’ grievances, etc., to score points over the conservatives WITHOUT ENDANGERING THE SYSTEM. Recall how, in Seattle, Bill Clinton himself deftly referred to the protesters on the streets outside, reminding the gathered leaders inside the guarded palaces that they should listen to the message of the demonstrators (the message which, of course, Clinton interpreted, depriving it of its subversive sting attributed to the dangerous extremists introducing chaos and violence into the majority of peaceful protesters). It’s the same with all New Social Movements, up to the Zapatistas in Chiapas: the systemic politics is always ready to “listen to their demands,” depriving them of their proper political sting. The system is by definition ecumenical, open, tolerant, ready to “listen” to all — even if one insist on one’s demands, they are deprived of their universal political sting by the very form of negotiation. The true Third Way we have to look for is this third way between the institutionalized parliamentary politics and the new social movements. The ultimate answer to the reproach that the radical Left proposals are utopian should thus be that, today, the true utopia is the belief that the present liberal-democratic capitalist consensus could go on indefinitely, without radical changes. We are thus back at the old ‘68 motto “Soyons realistes, demandons l'impossible!": in order to be truly a “realist,” one must consider breaking out of the constraints of what appears “possible” (or, as we usually out it, “feasible”)

Turn: Interpassivity—the direct call to action without the universalist element of our alternative leads to interpassivity which allows capitalism to subsume our movement

Zizek, 02 (Slavoj, Senior Researcher at the University of Ljubljana Revolution at the gates p.169- 171)

Indeed, since the "normal" functioning of capitalism involves some kind of disavowal of the basic principle of its functioning (today's model capitalist is someone who, after ruthlessly generating profit, then generously shares parts of it, giving large donations to churches, victims of ethnic or sexual abuse etc., posing as a humanitarian), the ultimate act of transgression is ‑to assert this principle directly, depriving it of its humanitarian mask. I am Therefore tempted to reverse Marx's Thesis 11: the first task today is Precisely not to succumb to the temptation to act, to intervene directly and Change things (which then inevitably ends in a cul‑de‑sac of debilitating impossibility: "What can we do against global capital? "), but to question he hegemonic ideological coordinates. In short, our historical moment is ,till that of Adorno:To the question "What should we do?" I can most often truly answer only with "I don't know." I can only try to analyse rigorously what there is. Here people reproach me: When you practise criticism, you are also obliged to say how one should make it better. To my mind, this is incontrovertibly a bourgeois prejudice. Many times in history it so happened that the very works which pursued purely theoretical goals transformed consciousness, and thereby also social reality. 5If, today, we follow a direct call to act, this act will not be performed in an empty space ‑ it will be an act within the hegemonic ideological coordinates‑ those who "really want to do something to help people" get ‑involved in (undoubtedly honourable) exploits like Medecins sans frontieres ‑,Greenpeace, feminist and anti‑racist campaigns, which are all not only tolerated but even supported by the media, even if they seemingly encroach an economic territory (for example, denouncing and boycotting companies which do not respect ecological conditions, or use child labour ‑ they are tolerated and supported as long as they do not get too close to a certain limit. This kind of activity provides the perfect example of interpassivity: of doing things not in order to achieve something, but to prevent something from really happening, really changing. ffffffffAll this frenetic humanitarian, politically Correct, etc., activity fits the formula of "Let's go on changing something all the time so that, globally, things will remain the same!". If standard Cultural Studies criticize capitalism, they do so in the coded way hat exemplifies Hollywood liberal paranoia: the enemy is "the system", the hidden "organization", the anti‑democratic "conspiracy", not simply capitalism and state apparatuses. The problem with this critical stance is not only that it replaces concrete social analysis with a struggle against abstract paranoiac fantasies, but that ‑ in a typical paranoiac gesture ‑ it unnecessarily redoubles social reality, as if there were a secret Organization behind the "visible" capitalist and state organs. What we should accept is that there is no need for a secret " organization‑within‑ an‑ organization": the "conspiracy" is already in the "visible" organization as such, in the capital system, in the way the political space and state apparatuses work.

### Link

Class should be recognized as qualitatively more important than other ways to organize identity – the plan becomes a peace meal that destroys attempts to overcome universal capitalist oppression

GIMENEZ (Prof. Sociology at UC Boulder) 2001

[Martha, “Marxism and Class; Gender and Race”, Race, Gender and Class, Vol. 8, p. online: <http://www.colorado.edu/Sociology/gimenez/work/cgr.html>)

There are many competing theories of race, gender, class, American society, political economy, power, etc. but no specific theory is invoked to define how the terms race, gender and class are used, or to identify how they are related to the rest of the social system. To some extent, race, gender and class and their intersections and interlockings have become a mantra to be invoked in any and all theoretical contexts, for a tacit agreement about their ubiquitousness and meaning seems to have developed among RGC studies advocates, so that all that remains to be dome is empirically to document their intersections everywhere, for everything that happens is, by definition, raced, classed, and gendered. This pragmatic acceptance of race, gender and class, as givens, results in the downplaying of theory, and the resort to experience as the source of knowledge. The emphasis on experience in the construction of knowledge is intended as a corrective to theories that, presumably, reflect only the experience of the powerful. RGC seems to offer a subjectivist understanding of theory as simply a reflection of the experience and consciousness of the individual theorist, rather than as a body of propositions which is collectively and systematically produced under historically specific conditions of possibility which grant them historical validity for as long as those conditions prevail. Instead, knowledge and theory are pragmatically conceived as the products or reflection of experience and, as such, unavoidably partial, so that greater accuracy and relative completeness can be approximated only through gathering the experiential accounts of all groups. Such is the importance given to the role of experience in the production of knowledge that in the eight page introduction to the first section of an RGC anthology, the word experience is repeated thirty six times (Andersen and Collins, 1995: 1-9). I agree with the importance of learning from the experience of all groups, especially those who have been silenced by oppression and exclusion and by the effects of ideologies that mystify their actual conditions of existence. To learn how people describe their understanding of their lives is very illuminating, for "ideas are the conscious expression -- real or illusory -- of (our) actual relations and activities" (Marx, 1994: 111), because "social existence determines consciousness" (Marx, 1994: 211). Given that our existence is shaped by the capitalist mode of production, experience, to be fully understood in its broader social and political implications, has to be situated in the context of the capitalist forces and relations that produce it. Experience in itself, however, is suspect because, dialectically, it is a unity of opposites; it is, at the same time, unique, personal, insightful and revealing and, at the same time, thoroughly social, partial, mystifying, itself the product of historical forces about which individuals may know little or nothing about (for a critical assessment of experience as a source of knowledge see Sherry Gorelick, "Contradictions of feminist methodology," in Chow, Wilkinson, and Baca Zinn, 1996; applicable to the role of experience in contemporary RGC and feminist research is Jacoby's critique of the 1960s politics of subjectivity: Jacoby, 1973: 37- 49). Given the emancipatory goals of the RGC perspective, it is through the analytical tools of Marxist theory that it can move forward, beyond the impasse revealed by the constant reiteration of variations on the "interlocking" metaphor. This would require, however, a) a rethinking and modification of the postulated relationships between race, class and gender, and b) a reconsideration of the notion that, because everyone is located at the intersection of these structures, all social relations and interactions are "raced," "classed," and "gendered." In the RGC perspective, race, gender and class are presented as equivalent systems of oppression with extremely negative consequences for the oppressed. It is also asserted that the theorization of the connections between these systems require "a working hypothesis of equivalency" (Collins, 1997:74). Whether or not it is possible to view class as just another system of oppression depends on the theoretical framework within class is defined. If defined within the traditional sociology of stratification perspective, in terms of a gradation perspective, class refers simply to strata or population aggregates ranked on the basis of standard SES indicators (income, occupation, and education) (for an excellent discussion of the difference between gradational and relational concepts of class, see Ossowski, 1963). Class in this non-relational, descriptive sense has no claims to being more fundamental than gender or racial oppression; it simply refers to the set of individual attributes that place individuals within an aggregate or strata arbitrarily defined by the researcher (i.e., depending on their data and research purposes, anywhere from three or four to twelve "classes" can be identified). From the standpoint of Marxist theory, however, class is qualitatively different from gender and race and cannot be considered just another system of oppression. As Eagleton points out, whereas racism and sexism are unremittingly bad, class is not entirely a "bad thing" even though socialists would like to abolish it. The bourgeoisie in its revolutionary stage was instrumental in ushering a new era in historical development, one which liberated the average person from the oppressions of feudalism and put forth the ideals of liberty, equality and fraternity. Today, however, it has an unquestionably negative role to play as it expands and deepens the rule of capital over the entire globe. The working class, on the other hand, is pivotally located to wage the final struggle against capital and, consequently, it is "an excellent thing" (Eagleton, 1996: 57). While racism and sexism have no redeeming feature, class relations are, dialectically, a unity of opposites; both a site of exploitation and, objectively, a site where the potential agents of social change are forged. To argue that the working class is the fundamental agent of change does not entail the notion that it is the only agent of change. The working class is of course composed of women and men who belong to different races, ethnicities, national origins, cultures, and so forth, so that gender and racial/ethnic struggles have the potential of fueling class struggles because, given the patterns of wealth ownership and income distribution in this and all capitalist countries, those who raise the banners of gender and racial struggles are overwhelmingly propertyless workers, technically members of the working class, people who need to work for economic survival whether it is for a wage or a salary, for whom racism, sexism and class exploitation matter. But this vision of a mobilized working class where gender and racial struggles are not subsumed but are nevertheless related requires a class conscious effort to link RGC studies to the Marxist analysis of historical change. In so far as the "class" in RGC remains a neutral concept, open to any and all theoretical meanings, just one oppression among others, intersectionality will not realize its revolutionary potential. Nevertheless, I want to argue against the notion that class should be considered equivalent to gender and race. I find the grounds for my argument not only on the crucial role class struggles play in processes of epochal change but also in the very assumptions of RGC studies and the ethnomethodological insights put forth by West and Fenstermaker (1994). The assumption of the simultaneity of experience (i.e., all interactions are raced, classed, gendered) together with the ambiguity inherent in the interactions themselves, so that while one person might think he or she is "doing gender," another might interpret those "doings" in terms of "doing class," highlight the basic issue that Collins accurately identifies when she argues that ethnomethodology ignores power relations. Power relations underlie all processes of social interaction and this is why social facts are constraining upon people. But the pervasiveness of power ought not to obfuscate the fact that some power relations are more important and consequential than others. For example, the power that physical attractiveness might confer a woman in her interactions with her less attractive female supervisor or employer does not match the economic power of the latter over the former. In my view, the flattening or erasure of the qualitative difference between class, race and gender in the RGC perspective is the foundation for the recognition that it is important to deal with "basic relations of domination and subordination" which now appear disembodied, outside class relations. In the effort to reject "class reductionism," by postulating the equivalence between class and other forms of oppression, the RGC perspective both negates the fundamental importance of class but it is forced to acknowledge its importance by postulating some other "basic" structures of domination. Class relations -- whether we are referring to the relations between capitalist and wage workers, or to the relations between workers (salaried and waged) and their managers and supervisors, those who are placed in "contradictory class locations," (Wright, 1978) -- are of paramount importance, for most people's economic survival is determined by them. Those in dominant class positions do exert power over their employees and subordinates and a crucial way in which that power is used is through their choosing the identity they impute their workers. Whatever identity workers might claim or "do," employers can, in turn, disregard their claims and "read" their "doings" differently as "raced" or "gendered" or both, rather than as "classed," thus downplaying their class location and the class nature of their grievances. To argue, then, that class is fundamental is not to "reduce" gender or racial oppression to class, but to acknowledge that the underlying basic and "nameless" power at the root of what happens in social interactions grounded in "intersectionality" is class power.

#### Racism was create to protect the labor production of chattel slavery – it was manufactured by elites as a means of protecting their interests – anti-racism strategies are co-opted and divide resistance – universal consciousness is key

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The concept of race is a relatively recent development. Only in the past few centuries, owing largely to European imperialism, have the world’s people been classified along racial lines. Here, in America, the idea of race emerged as a means of reconciling chattel slavery- as well as the extermination of American Indians – with the ideals of freedom preached by whites in the new colonies. In the early colonial period, when settlements remained relatively small, indentured servitude was the dominant means of securing cheap labor. Under this system, whites and blacks struggled to survive against a common enemy, what historian Lerone Bennett Jr. describes as “the big planter apparatus and a social system that legalized terror against black and white bondsmen.” Initially, blacks brought to this country were not all enslaved; many were treated as indentured servants. As plantation farming expanded, particularly tobacco and cotton farming, demand increased greatly for both labor and land. The demand for land was met by invading and conquering larger and large swaths of territory. American Indians became a growing impediment to white European “progress,” and during this period, the images of American Indians promoted in books, newspapers, and magazines became increasingly negative. As sociologists Keith Kilty and Eric Swank have observed, eliminating “savages” is less of a moral problem than eliminating human beings, and therefore American Indians came to be understood as a lesser race- uncivilized savages- thus providing a justification for the extermination of the native peoples. The growing demand for labor on plantations was met through slavery. American Indians were considered unsuitable as slaves, largely because native tribes were clearly in a position to fight back. The fear of raids by Indian tribes left plantation owners to grasp for an alternative source of free labor. European immigrants were also deemed poor candidates for slavery, not because of their race, but rather because they were in short supply and enslavement would, quite naturally, interfere with voluntary immigration to the new colonies. Plantation owners thus view Africans, who were relatively powerless, as the ideal slaves. The systemic enslavement of Africans, and the rearing of their children under bondage, emerged with all deliberate speed- quickened by events such as Bacon’s Rebellion. Nathaniel Bacon was a white property owner in Jamestown, Virginia, who managed to united slaves, indentured servants, and poor whites in a revolutionary effort to overthrow the planter elite. Although slaves clearly occupied the lowest position in the social hierarchy and suffered the most under the plantation, the condition of indentured whites was barely better, and the majority of free whites lived in extreme poverty. As explained by historian Edmund Morgan, in colonies like Virginia, the planter elite, with huge land grants, occupied a vastly superior position to workers of all colors. Southern colonies did not hesitate to invent ways to extend the terms of servitude, and the planter class accumulated uncultivated lands to restrict the options of free workers. The simmering resentment against the planter class created conditions that were ripe for revolt. Varying accounts of Bacon’s rebellion abound, but the basic facts are these: Bacon developed plans in 1675 to seize Native American lands in order to acquire more property for himself and others and nullify the threat of Indian raids. When the planter elite in Virginia refused to provide militia support for his scheme, Bacon retaliated, leading to an attack on the elite, their homes, and their property. He openly condemned the rich for their oppression of the poor and inspired an alliance of white and black bond laborers, as well as slaves, who demanded an end to their servitude. The attempted revolution was ended by force and false promises of amnesty. A number of the people who participated in the revolt were hanged. The events in Jamestown were alarming to the planter elite, who were deeply fearful of the multiracial alliance of bond workers and slave. Word of Bacon’s rebellion spread far and wide, and several more uprisings of a similar type followed. In an effort to protect their superior status and economic position, the planters shifted their strategy for maintaining dominance. They abandoned their heavy reliance on indentured servants in favor of the importation of more black slaves. Instead of importing English-speaking slaves from the West Indies, who were more likely to be familiar with European language and culture, many more slaves were shipped directly from Africa. These slaves would be far easier to control and far less likely to form alliances with poor whites. Fearful that such measures might not be sufficient to protect their interests, the planter class took an additional precautionary step, a step that would later come to be known as a “racial bribe.” Deliberately and strategically, the planter class extended special privileges to poor whites in an effort to drive a wedge between them and black slaves. White settlers were allowed greater access to Native American lands, white servants were allowed to police slaves through slave patrols and militias, and barriers were created so that free labor would not be placed in competition with slave labor. These measures effectively eliminated the risk of future alliances between black slaves and poor whites. Poor whites suddenly had a direct, personal stake in the existence of a race-based system of slavery. Their own plight had not improved by much, but at least they were not slaves. Once the planter elite split the labor force, poor whites responded to the logic of their situation and sought ways to expand their racially privileged position. By the mid-1770s, the system of bond labor had been thoroughly transformed into a racial caste system predicated on slavery. The degraded status of Africans was justified on the ground that Negros, like the Indians, were an uncivilized lesser race, perhaps even more lacking in intelligence and laudable human qualities than the red-skinned natives. The notion of white supremacy rationalized the enslavement of Africans, even as whites endeavored to form a new nation based on the ideals of equality, liberty, and justice for all. Before democracy, chattel slavery was born.

#### Seeing racism as the product of fear of difference covers up existing economic conditions that mask the true nature of exploitation

Young 6

(Robert, Prof. Critical Studies at Oxford, “Putting Materialism Back Into Race Theory”, Red Critique, Spring)

I foreground my (materialist) understanding of race as a way to contest contemporary accounts of race, which erase any determinate connection to economics. ffffffFor instance, humanism and poststructuralism represent two dominant views on race in the contemporary academy. Even though they articulate very different theoretical positions, they produce similar ideological effects: the suppression of economics. They collude in redirecting attention away from the logic of capitalist exploitation and point us to the cultural questions of sameness (humanism) or difference (poststructuralism). In developing my project, I critique the ideological assumptions of some exemplary instances of humanist and poststructuralist accounts of race, especially those accounts that also attempt to displace Marxism, and, in doing so, I foreground the historically determinate link between race and exploitation. It is this link that forms the core of what I am calling a transformative theory of race. The transformation of race from a sign of exploitation to one of democratic multiculturalism, ultimately, requires the transformation of capitalism.