# 1NC

## 1

**Observation One: Interp**

**First, our interpretation: debate is an agonistic field of play where participants must accept the constraints of agreeing to switch-sides on the topic by reading a topical affirmative when they are aff and negating the topic when they are negative.**

**Second, are our link arguments. The aff team fails to engage in this process in three ways:**

1. **Advocating a definitive course of action as indicated by the words ‘resolved’ and ‘should’[[1]](#footnote-1), rather they have you endorse a fluid system of constant criticism.**

**RESOLVED” EXPRESSES INTENT TO IMPLEMENT THE PLAN**

American Heritage Dictionary 2K

[www.dictionary.com/cgi-bin/dict.pl?term=resolved](http://www.dictionary.com/cgi-bin/dict.pl?term=resolved)

To find a solution to; solve …

To bring to a usually successful conclusion

**“SHOULD” DENOTES AN EXPECTATION OF ENACTING A PLAN**

American Heritage Dictionary **–** 2K

[www.dictionary.com]

3 Used to express probability or expectation

1. **Not defending the agent of the resolution, which is the government of the United States based in D.C.[[2]](#footnote-2)**

**THE TOPIC IS DEFINED BY THE PHRASE FOLLOWING THE COLON – THE UNITED STATES FEDERAL GOVERNMENT IS THE AGENT OF THE RESOLUTION, NOT THE INDIVIDUAL DEBATERS**

Webster’s Guide to Grammar and Writing **2K**

<http://ccc.commnet.edu/grammar/marks/colon.htm>

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go on… If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, begin the clause after the colon with a capital letter.

**THE U.S.F.G. is three branches of government**

Microsoft Encarta Online Encyclopedia **2K** [http://encarta.msn.com]

Supreme Court of the United States, highest court in the United States and the chief authority in the judicial branch, one of three branches of the United States federal government.

**OUR DEFINITION EXCLUDES ACTION BY SMALLER POLITICAL GROUPS OR INDIVIDUALS.**

Black’s Law DictionarySeventh Edition Ed. Bryan A. Garner (chief) **‘**99

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

1. **Not defending an increasing statutory or judicial restrictions on the Presidential war power authority of the President of the United States**

**Observation Two: The impacts**

**There are three net benefits to this interpretation of debate:**

**First, MORAL disagreement: Effective moral deliberation requires that all parties be willing to submit to a RECIPROCAL process of agonistic disagreement. Without switch-side debate, there can be no method of dealing with the practical constraints that surround any persuasive context. EVEN IF the affirmative wins there is merit to considering their case, their abandonment of of switch-side debate leaves us unable to speak to problems of power, violence and inequality**

**Gutmann & Thompson 96**

[Amy & Dennis, President of Penn State and Professor of Political Philosophy at Harvard, Democracy and Disagreement, p. 1//wyo-tjc]

OF THE **CHALLENGES** that American **democracy faces today**, none **is** more formidable than the problem of **moral disagreement**. Neither the theory nor the practice of democratic politics has so far found an adequate way to cope with conflicts about fundamental values. We address the challenge of moral disagreement here by developing a conception of democracy that secures a central place for moral discussion in political life. Along with a growing number of other political theorists, we call this conception deliberative democracy. The core idea is simple: **when citizens** or their representatives **disagree morally, they should continue to reason together to reach mutually acceptable decisions.** But the meaning and implications of the idea are complex. Although the idea has a long history, it is still in search of a theory. We do not claim that this book provides a comprehensive theory of deliberative democracy, but we do hope that it contributes toward its future development by showing the kind of delib-eration that is possible and desirable in the face of moral disagreement in democracies. Some scholars have criticized liberal political theory for neglecting moral deliberation. Others have analyzed the philosophical foundations of deliberative democracy, and still others have begun to explore institutional reforms that would promote deliberation. Yet nearly all of them stop at the point where deliberation itself begins. None has systematically examined the substance of deliberation—the theoretical principles that should guide moral argument and their implications for actual moral disagreements about public policy. That is our subject, and it takes us into the everyday forums of democratic politics, where moral argument regularly appears but where theoretical analysis too rarely goes. **Deliberative democracy involves reasoning about politics**, and nothing has been more controversial in political philosophy than the nature of reason in politics. **We do not believe that these controversies have to be settled before deliberative principles can guide the practice of democracy**. Since on occasion citizens and their representatives already engage in the kind of reasoning that those principles recommend, deliberative democracy simply asks that they do so more consistently and comprehensively. The best way to prove the value of this kind of reasoning is to show its role in arguments about specific principles and policies, and its contribu¬tion to actual political debates. That is also ultimately the best justification for our conception of deliberative democracy itself. But to forestall pos¬sible misunderstandings of our conception of deliberative democracy, we offer some preliminary remarks about the scope and method of this book. The aim of the **moral reasoning that our deliberative democracy pre-scribes** falls between impartiality, which **requires** something like altruism, and prudence, which demands no more than enlightened self-interest. Its first principle is **reciprocity**, the subject of Chapter 2, but no less essential are the other principles developed in later chapters. **When citizens reason reciprocally, they seek fair terms** **of social cooperation** for their own sake; they try to **find mutually acceptable ways of resolving moral disagreements**. The precise content of **reciprocity** is difficult to determine in theory, but its general countenance is familiar enough in practice. It **can be seen in** the **difference** between **acting in one's self-interest** (say, taking advantage of a legal loophole or a lucky break) **and** **acting fairly** (following rules in the spirit that one expects others to adopt). In many of the controversies dis-cussed later in the book, the possibility of any morally acceptable resolution depends on citizens' reasoning beyond their narrow self-interest and considering what can be justified to people who reasonably disagree with them. Even though the quality of deliberation and the conditions under which it is conducted are far from ideal in the controversies we consider, the fact that in each case some citizens and some officials make arguments consistent with reciprocity suggests that a deliberative perspective is not Utopian. To clarify what **reciprocity might demand** under non-ideal conditions, we develop a **distinction between** **deliberative and nondeliberative disa-greement.** Citizens who reason reciprocally can **recognize** that **a position** **is** **worthy** **of moral respect** **even** **when they think it morally wrong.** They can believe that a moderate pro-life position on abortion, for example, is morally respectable even though they think it morally mistaken. (The abortion example—to which we often return in the book—is meant to be illustrative. For readers who deny that there is any room for deliberative disagreement on abortion, other political controversies can make the same point.) The presence of deliberative disagreement has important implications for how citizens treat one another and for what policies they should adopt. When a **disagreement is not deliberative** (for example, about a policy to legalize discrimination against blacks and women), citizens do not have any obligations of mutual respect toward their opponents. In deliberative disagreement (for example, about legalizing abortion), **citizens** **should try to accommodate the moral convictions** of their opponents to the greatest extent possible, without compromising their own moral convictions. We call this kind of accommodation an economy of moral disagreement, and believe that, though neglected in theory and practice, it is essential to a morally robust democratic life. Although both of us have devoted some of our professional life to urging these ideas on public officials and our fellow citizens in forums of practical politics, this book is primarily the product of scholarly rather than political deliberation. Insofar as it reaches beyond the academic community, it is addressed to citizens and officials in their more reflective frame of mind. Given its academic origins, some readers may be inclined to complain that only professors could be so unrealistic as to believe that moral reasoning can help solve political problems. But such a complaint would misrepresent our aims. To begin with, we do not think that academic discussion (whether in scholarly journals or college classrooms) is a model for moral deliberation in politics. **Academic discussion need not aim at justifying a practical decision, as deliberation must**. Partly for this reason, **academic discussion is likely to be insensitive to the contexts of ordinary politics**: the pressures of power, the problems of inequality, the demands of diversity, the exigencies of persuasion. Some critics **of deliberative democracy show a similar insensitivity when they judge actual** political **deliberations** by the standards of ideal philosophical reflection. Actual deliberation is inevitably defective, but so is philosophical reflection practiced in politics. The appropriate comparison is between the ideals of democratic deliberation and philosophical reflection, or between the application of each in the non-ideal circumstances of politics. We do not assume that politics should be a realm where the logical syllogism rules. Nor do we expect even the more appropriate standard of mutual respect always to prevail in politics. A deliberative perspective sometimes justifies bargaining, negotiation, force, and even violence. It is partly **because moral argument has so much unrealized potential in dem-ocratic politics** that we believe it **deserves more attention**. Because its place in politics is so precarious, the need to find it a more secure home and to nourish its development is all the more pressing. Yet because it is also already part of our common experience, we have reason to hope that it can survive and even prosper if philosophers along with citizens and public officials better appreciate its value in politics. Some readers may still wonder why deliberation should have such a prominent place in democracy. Surely, they may say, citizens should care more about the justice of public policies than the process by which they are adopted, at least so long as the process is basically fair and at least minimally democratic. **One of our main aims** in this book **is to cast doubt on the dichotomy between policies and process** that this concern assumes. Having good reason as individuals to believe that a policy is just does not mean that collectively as citizens we have sufficient justification to legislate on the basis of those reasons. The **moral authority of collective judgments about policy depends in part on the moral quality of the process by which citizens collectively reach those judgments**. Deliberation is the most appropriate way for citizens collectively to resolve their moral disagreements not only about policies but also about the process by which policies should be adopted. **Deliberation is not only a means to an end, but also a means for deciding what means are morally required to pursue our common ends**.

**Simulated national security law debates preserve agency and enhance decision-making---avoids cooption**

Laura K. **Donohue 13**, Associate Professor of Law, Georgetown Law, 4/11, “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.

**SWITCH-SIDE DEBATE: The net-benefits are epistemic because prepared, competitive discourse and listening to both sides of an argument is a prerequisite for critical reasoning, and ontological because it affirms a method of living that is the only antidote to the violence of the affirmative’s universalist dogma, which is root of violence and genocide**

**Roberts-Miller 3**

[Patricia, Associate Professor of Rhetoric at UT Austin, “Fighting Without Hatred: Hannah Arendt ' s Agonistic Rhetoric”, p. asp//wyo-tjc]

Totalitarianism and the Competitive Space of Agonism Arendt is probably most famous for her analysis of totalitarianism (especially her The Origins of Totalitarianism and Eichmann in Jerusalem), but the recent attention has been on her criticism of mass culture (The Human Condition). Arendt's main criticism of the current human condition is that **the common world** of deliberate and joint action **is fragmented into** **solipsistic and unreflective behavior**. In an especially lovely passage, she says that in mass society **people are** all **imprisoned** **in the subjectivity of their own singular experience**, which does not cease to be singular if the same experience is multiplied innumerable times. **The end of the common world has come when it is seen only under one aspect and is permitted to present itself in only one perspective**. (Human 58) What Arendt so beautifully describes is that isolation and individualism are not corollaries, and may even be antithetical because **obsession with one's own self** and the particularities of one's life **prevents** one from engaging in conscious, deliberate, **collective action**. Individuality, unlike isolation, depends upon a collective with whom one argues in order to direct the common life. **Self-obsession**, even (especially?) **when coupled with isolation** **from** one' s **community** is **far** **from apolitical**; **it has** political **consequences**. Perhaps a better way to put it is that it is political **precisely because it aspires to be apolitical**. This fragmented world in which many people live simultaneously and even similarly but not exactly together is what Arendt calls the "social." Arendt does not mean that group behavior is impossible in the realm of the social, but that social behavior consists "in some way of isolated individuals, incapable of solidarity or mutuality, who abdicate their human capacities and responsibilities to a projected 'they' or 'it,' with disastrous consequences, both for other people and eventually for themselves" (Pitkin 79). One can behave, but not act. For someone like Arendt, a German-assimilated Jew, one of the most frightening aspects of the Holocaust was the ease with which a people who had not been extraordinarily anti-Semitic could be put to work industriously and efficiently on the genocide of the Jews. And what was striking about the perpetrators of the genocide, ranging from minor functionaries who facilitated the murder transports up to major figures on trial at Nuremberg, was their constant and apparently sincere insistence that they were not responsible. For Arendt, this was not a peculiarity of the German people, but of the current human and heavily bureaucratic condition of twentieth-century culture: we do not consciously choose to engage in life's activities; we drift into them, or we do them out of a desire to conform. Even while we do them, we do not acknowledge an active, willed choice to do them; instead, we attribute our behavior to necessity, and we perceive ourselves as determined—determined by circumstance, by accident, by what "they" tell us to do. We do something from within the anonymity of a mob that we would never do as an individual; we do things for which we will not take responsibility. Yet, whether or not people acknowledge responsibility for the consequences of their actions, those consequences exist. Refusing to accept responsibility can even make those consequences worse, in that the people who enact the actions in question, because they do not admit their own agency, cannot be persuaded to stop those actions. They are simply doing their jobs. In a totalitarian system, however, everyone is simply doing his or her job; there never seems to be anyone who can explain, defend, and change the policies. Thus, it is, as Arendt says, rule by nobody. It is illustrative to contrast Arendt's attitude toward discourse to Habermas'. While both are critical of modern bureaucratic and totalitarian systems, Arendt's **solution is** the **playful and competitive space of agonism**; it is not the rational-critical public sphere. The "actual content of political life" is "the joy and the gratification that arise out of being in company with our peers, out of acting together and appearing in public, out of inserting ourselves into the world by word and deed, thus acquiring and sustaining our personal identity and beginning something entirely new" ("Truth" 263). According to Seyla Benhabib, Arendt's public realm emphasizes the assumption of competition, and it "represents that space of appearances in which moral and political greatness, heroism, and preeminence are revealed, displayed, shared with others. This is a **competitive space** in which one **competes for recognition, precedence, and acclaim**" (78). These qualities are displayed, but not entirely for purposes of acclamation; they are not displays of one's self, but of ideas and arguments, of one's thought. When Arendt discusses Socrates' thinking in public, she emphasizes his performance: "He performed in the marketplace the way the flute-player performed at a banquet. It is sheer performance, sheer activity"; nevertheless, it was thinking: "What he actually did was to make public, in discourse, the thinking process" {Lectures 37). Pitkin summarizes this point: "Arendt says that the heroism associated with politics is not the mythical machismo of ancient Greece but something more like the existential leap into action and public exposure" (175-76). Just as it is not machismo, although it does have considerable ego involved, so it is not instrumental rationality; Arendt's discussion of the kinds of discourse involved in public action include myths, stories, and personal narratives. Furthermore, the **competition is not ruthless;** it **does not imply a willingness to triumph at all costs. Instead**, it **involves** something like **having** such **a passion for ideas and politics that one is willing to take risks**. One tries to articulate the best argument, propose the best policy, design the best laws, make the best response. **This is a risk in that one might lose;** advancing an argument means that one must be open to the criticisms others will make of it. The situation is **agonistic not because the participants** manufacture or **seek conflict, but because conflict is a necessary consequence of difference** This attitude is reminiscent of Kenneth Burke, who did not try to find a language free of domination but who instead theorized a way that the very tendency toward hierarchy in language might be used against itself (for more on this argument, see Kastely). Similarly, Arendt does not propose a public realm of neutral, rational beings who escape differences to live in the discourse of universals; she envisions one of different people who argue with passion, vehemence, and integrity. Eichmann perfectly exemplified what Arendt famously called the "banality of evil" but that might be better thought of as the bureaucratization of evil (or, as a friend once aptly put it, the evil of banality). That is, he was able to engage in mass murder because he was able not to think about it, especially not from the perspective of the victims, and he was able to exempt himself from personal responsibility by telling himself (and anyone else who would listen) that he was just following orders. It was the bureaucratic system that enabled him to do both. He was not exactly passive; he was, on the contrary, very aggressive in trying to do his duty. He behaved with the "ruthless, competitive exploitation" and "inauthen-tic, self-disparaging conformism" that characterizes those who people totalitarian systems (Pitkin 87). Arendt's theorizing of totalitarianism has been justly noted as one of her strongest contributions to philosophy. She saw that a situation like Nazi Germany is different from the conventional understanding of a tyranny. Pitkin writes, Totalitarianism cannot be understood, like earlier forms of domination, as the ruthless exploitation of some people by others, whether the motive be selfish calculation, irrational passion, or devotion to some cause. Understanding totalitarianism's essential nature requires solving the central mystery of the holocaust—the objectively useless and indeed dysfunctional, fanatical pursuit of a purely ideological policy, a pointless process to which the people enacting it have fallen captive. (87) Totalitarianism is closely connected to bureaucracy; it is oppression by rules, rather than by people who have willfully chosen to establish certain rules. It is the triumph of the social. Critics (both friendly and hostile) have paid considerable attention to Arendt's category of the "social," largely because, despite spending so much time on the notion, Arendt remains vague on certain aspects of it. Pitkin appropriately compares Arendt's concept of the social to the Blob, the type of monster that figured in so many post-war horror movies. That Blob was "an evil monster from outer space, entirely external to and separate from us [that] had fallen upon us intent on debilitating, absorb¬ing, and ultimately destroying us, gobbling up our distinct individuality and turning us into robots that mechanically serve its purposes" (4). Pitkin is critical of this version of the "social" and suggests that Arendt meant (or perhaps should have meant) something much more complicated. The simplistic version of the social-as-Blob can itself be an instance of Blob thinking; Pitkin's criticism is that Arendt talks at times as though the social comes from outside of us and has fallen upon us, turning us into robots. Yet, Arendt's major criticism of the social is that it involves seeing ourselves as victimized by something that comes from outside our own behavior. I agree with Pitkin that Arendt's most powerful descriptions of the social (and the other concepts similar to it, such as her discussion of totalitarianism, imperialism, Eichmann, and parvenus) emphasize that these processes are not entirely out of our control but that they happen to us when, and because, we keep refusing to make active choices. We create the social through negligence. It is not the sort of force in a Sorcerer's Apprentice, which once let loose cannot be stopped; on the contrary, it continues to exist because we structure our world to reward social behavior. Pitkin writes, "From childhood on, in virtually all our institutions, we reward euphemism, salesmanship, slo¬gans, and we punish and suppress truth-telling, originality, thoughtful-ness. So we continually cultivate ways of (not) thinking that induce the social" (274). I want to emphasize this point, as it is important for thinking about criticisms of some forms of the social construction of knowledge: denying our own agency is what enables the social to thrive. To put it another way, theories of powerlessness are self-fulfilling prophecies. Arendt grants that there are people who willed the Holocaust, but she insists that **totalitarian systems** **result not** so much **from** the **Hitlers** or Stalins **as from the bureaucrats who may or may not agree with** the established **ideology but** who **enforce** the **rules** **for no stronger motive than a desire to avoid trouble** with their superiors (see Eichmann and Life). **They do not think about what they do. One might prevent such occurrences**—or, at least, resist the modern tendency toward totalitarian¬ism—by thought: "critical thought is in principle anti-authoritarian" (Lectures 38). By "thought" Arendt does not mean eremitic contemplation; in fact, she has great contempt for what she calls "professional thinkers," refusing herself to become a philosopher or to call her work philosophy. Young-Bruehl, Benhabib, and Pitkin have each said that **Heidegger represented** just such a professional thinker for Arendt, and his **embrace of Nazism** **epitomized** the **genuine dangers such "thinking" can pose** (see Arendt's "Heidegger"). "**Thinking" is not typified by** the **isolated** **con¬templation** of philosophers; it requires the arguments of others and close attention to the truth. It is easy to overstate either part of that harmony. One must consider carefully the arguments and viewpoints of others: **Political thought is representative**. I form an opinion by considering a given issue from different viewpoints, by making present to my mind the standpoints of those who are absent; that is, I represent them. This process of representation does not blindly adopt the actual views of those who stand somewhere else, and hence look upon the world from a different perspective; this is a question neither of empathy, as though I tried to be or to feel like somebody else, nor of counting noses and joining a majority but of being and thinking in my own identity where actually I am not. **The more** people's **standpoints** I have **present** in my mind while I am pondering a given issue, and the **better I can imagine how I would feel and think if I were in their place,** the stronger will be my capacity for represen¬tative thinking and the more valid my final conclusions, my opinion. ("Truth" 241) **There are two points to emphasize** in this wonderful passage. First, **one does not get these standpoints in one's mind through imagining them, but through listening to them;** thus, **good thinking requires that one hear the arguments of other people.** Hence, as Arendt says, "critical thinking, while still a solitary business, does not cut itself off from' all others.'" Thinking is, in this view, necessarily public discourse: critical thinking is possible "only where the standpoints of all others are open to inspection" (Lectures 43). Yet, it is not a discourse in which one simply announces one's stance; participants are interlocutors and not just speakers; they must listen. Unlike many current versions of public discourse, **this view presumes that speech matters**. It is not asymmetric manipulation of others, nor merely an economic exchange; it must be a world into which one enters and by which one might be changed. Second, passages like the above make some readers think that Arendt puts too much faith in discourse and too little in truth (see Habermas). But Arendt is no crude relativist; she believes in truth, and she believes that there are facts that can be more or less distorted. She does not believe that reality is constructed by discourse, or that truth is indistinguishable from falsehood. She insists tha^ the truth has a different pull on us and, consequently, that it has a difficult place in the world of the political. Facts are different from falsehood because, while they can be distorted or denied, especially when they are inconvenient for the powerful, they also have a certain positive force that falsehood lacks: "Truth, though powerless and always defe ated in a head-on clash with the powers that be, possesses a strength of its own: whatever those in power may contrive, they are unable to discover or invent a viable substitute for it. Persuasion and violence can destroy truth, but they cannot replace it" ("Truth" 259). Facts have a strangely resilient quality partially because a lie "tears, as it were, a hole in the fabric of factuality. As every historian knows, one can spot a lie by noticing incongruities, holes, or the j unctures of patched-up places" ("Truth" 253). While she is sometimes discouraging about our ability to see the tears in the fabric, citing the capacity of totalitarian governments to create the whole cloth (see "Truth" 252-54), she is also sometimes optimistic. In Eichmann in Jerusalem, she repeats the story of Anton Schmidt—a man who saved the lives of Jews—and concludes that such stories cannot be silenced (230-32). For facts to exert power in the common world, however, these stories must be told. Rational truth (such as principles of mathematics) might be perceptible and demonstrable through individual contemplation, but "factual truth, on the contrary, is always related to other people: it concerns events and circumstances in which many are involved; it is established by witnesses and depends upon testimony; it exists only to the extent that it is spoken about, even if it occurs in the domain of privacy. It is political by nature" (23 8). Arendt is neither a positivist who posits an autonomous individual who can correctly perceive truth, nor a relativist who positively asserts the inherent relativism of all perception. Her description of how **truth** functions **does not fall anywhere in the three-part expeditio so prevalent in both rhetoric and philosophy: it is not expressivist, positivist, or social constructivist. Good thinking depends upon good public argument, and good public argument depends upon access to facts**: "Freedom of opinion is a farce unless factual information is guaranteed" (238). The sort of thinking that Arendt propounds takes the form of action only when it is public argument, and, as such, it is particularly precious: "For if no other test but the experience of being active, no other measure but the extent of sheer activity were to be applied to the various activities within the vita activa, it might well be that thinking as such would surpass them all" (Human 325). Arendt insists that it is "the same general rule— Do not contradict yourself (not your self but your thinking ego)—that determines both thinking and acting" (Lectures 3 7). In place of the mildly resentful conformism that fuels totalitarianism, Arendt proposes what Pitkin calls "a tough-minded, open-eyed readiness to perceive and judge reality for oneself, in terms of concrete experience and independent, critical theorizing" (274). The paradoxical nature of agonism (that it must involve both individuality and commonality) makes it difficult to maintain, as the temptation is great either to think one's own thoughts without reference to anyone else or to let others do one's thinking.

**Third, Engaging the state is critical to the ability of citizens to break into the project of solving global challenges: It relies on an existing internationalist state and refocuses its energies through citizen participation in national institutions that solve for war as well as environmental and social challenges**

**Sassen 2009**

[ColumbiaUniversity, istheauthorof TheGlobalCity (2ndedn, Princeton, 2001), Territory, Authority, Rights: From Medieval to Global Assemblages (Princeton, 2008) and A Sociology of Globalisation (Norton,2007), among others, 2009, The Potential for a Progressive State?, uwyo//amp]

Using state power for a new global politics These post-1980s trends towards **a greater interaction of national andglobal dynamics are not part of some unidirectional historical progres-sion**. There have been times in the past when they may have been as strong in certain aspects as they are today (Sassen, 2008a: chapter 3). But **the current positioning of national states is distinctive precisely because** 270 Saskia Sassen **the national state has become the most powerful complex organizational entity in the world, and because it is a resource that citizens, confined largely to the national, can aim at governing and using to develop novel political agendas. It is this mix of the national and the global that is so full of potential. The national state is one particular form of state: at the other end of this variable the state can be conceived of as a technical administrative capability that could escape the historic bounds of narrow nationalisms that have marked the state historically**, or colonialism as the only form of internationalism that states have enacted**. Stripping the state of the particularity of this historical legacy gives me more analytic freedom in conceptualising these processes and opens up the possibility of the denationalised state**.As particular components of national states become the institutional home for the operation of some of the dynamics that are central to glob-alisation they undergo change that is difficult to register or name. In my own work I have found useful the notion of an incipient denation-alising of specific components of national states, i.e. components that function as such institutional homes. **The question for research then becomes what is actually ‘national’ in some of the institutional compo-nents of states linked to the implementation and regulation of economic globalisation. The hypothesis here would be that some components of national institutions, even though formally national, are not national in the sense in which we have constructed the meaning of that term overthe last hundred years.This partial**, often highly specialised or at least particularised**, dena-tionalisation can also take place in domains other than that of economic globalisation, notably the more recent developments in the humanrights regime which allow national courts to sue foreign firms and dictators, or which grant undocumented immigrants certain rights. Denationalisation is, thus, multivalent: it endogenises global agendas of many different types of actors, not only corporate firms and financial markets, but also human rights and environmental objectives. Those confined to the national can use national state institutions as a bridge into global politics. This is one kind of radical politics**, and only one kind, **that would use the capacities of hopefully increasingly denationalized states. The existence and the strengthening of global civil society organ-isations becomes strategic in this context. In all of this lie the possibilities of moving towards new types of joint global action by denationalized states–coalitions of the willing focused not on war but on environmental and social justice projects.**

**Observation Three: Voting Issue**

**Vote negative to reject the affirmative’s dogmatic refusal to subject themselves to the constraints of switch-side debate.**

**First, BOUNDED CREATIVITY outweighs: You should embrace a model of debate that strikes a balance between predictability and creativity— preparing to debate within a common framework enhances education because it maximizes testing of ideas. That’s also a reason to SEVERLY DISCOUNT their impact claims because those claims have not been submitted to rigorous testing.**

**Goodin 03**

[Robert E. Goodin and Simon J. Niemeyer- Australian National University- 2003, When Does Deliberation Begin? Internal Reflection versus Public Discussion in Deliberative Democracy, POLITICAL STUDIES: 2003 VOL 51, 627–649, uwyo//amp]

Suppose that instead of highly polarized symbolic attitudes, what we have at the outset is mass ignorance or mass apathy or non-attitudes. There again, people's engaging with the issue – focusing on it, acquiring information about it, thinking hard about it – would be something that is likely to occur earlier rather than later in the deliberative process. And more to our point, it is something that is most likely to occur within individuals themselves or in informal interactions, well in advance of any formal, organized group discussion. There is much in the large literature on attitudes and the mechanisms by which they change to support that speculation.31 Consider, for example, the literature on ‘central’ versus ‘peripheral’ routes to the formation of attitudes. Before deliberation, individuals may not have given the issue much thought or bothered to engage in an extensive process of reflection.32 In such cases, positions may be arrived at via peripheral routes, taking cognitive shortcuts or arriving at ‘top of the head’ conclusions or even simply following the lead of others believed to hold similar attitudes or values (Lupia, 1994). These shorthand approaches involve the use of available cues such as ‘expertness’ or ‘attractiveness’ (Petty and Cacioppo, 1986) – not deliberation in the internal-reflective sense we have described. Where peripheral shortcuts are employed, there may be inconsistencies in logic and the formation of positions, based on partial information or incomplete information processing. In contrast, ‘central’ routes to the development of attitudes involve the application of more deliberate effort to the matter at hand, in a way that is more akin to the internal-reflective deliberative ideal. Importantly for our thesis, there is nothing intrinsic to the ‘central’ route that requires group deliberation. Research in this area stresses instead the importance simply of ‘sufficient impetus’ for engaging in deliberation, such as when an individual is stimulated by personal involvement in the issue.33 The same is true of ‘on-line’ versus ‘memory-based’ processes of attitude change.34 The suggestion here is that we lead our ordinary lives largely on autopilot, doing routine things in routine ways without much thought or reflection. When we come across something ‘new’, we update our routines – our ‘running’ beliefs and procedures, attitudes and evaluations – accordingly. But having updated, we then drop the impetus for the update into deep-stored ‘memory’. A consequence of this procedure is that, when asked in the ordinary course of events ‘what we believe’ or ‘what attitude we take’ toward something, we easily retrieve what we think but we cannot so easily retrieve the reasons why. That more fully reasoned assessment – the sort of thing we have been calling internal-reflective deliberation – requires us to call up reasons from stored memory rather than just consulting our running on-line ‘summary judgments’. Crucially for our present discussion, once again, what prompts that shift from on-line to more deeply reflective deliberation is not necessarily interpersonal discussion. The impetus for fixing one's attention on a topic, and retrieving reasons from stored memory, might come from any of a number sources: group discussion is only one. And again, even in the context of a group discussion, this shift from ‘on-line’ to ‘memory-based’ processing is likely to occur earlier rather than later in the process, often before the formal discussion ever begins. All this is simply to say that, on a great many models and in a great many different sorts of settings, it seems likely that elements of the pre-discursive process are likely to prove crucial to the shaping and reshaping of people's attitudes in a citizens’ jury-style process. The initial processes of focusing attention on a topic, providing information about it and inviting people to think hard about it is likely to provide a strong impetus to internal-reflective deliberation, altering not just the information people have about the issue but also the way people process that information and hence (perhaps) what they think about the issue. What happens once people have shifted into this more internal-reflective mode is, obviously, an open question. Maybe people would then come to an easy consensus, as they did in their attitudes toward the Daintree rainforest.35 Or maybe people would come to divergent conclusions; and they then may (or may not) be open to argument and counter-argument, with talk actually changing minds. Our claim is not that group discussion will always matter as little as it did in our citizens’ jury.36 Our claim is instead merely that the earliest steps in the jury process – the sheer focusing of attention on the issue at hand and acquiring more information about it, and the internal-reflective deliberation that that prompts – will invariably matter more than deliberative democrats of a more discursive stripe would have us believe. However much or little difference formal group discussions might make, on any given occasion, the pre-discursive phases of the jury process will invariably have a considerable impact on changing the way jurors approach an issue.

## 2

#### Their REFUSAL to include women in the discussion is an act of racism and white supremacy which turns their aff. Native American women are afraid to call themselves feminist; allowing the suppression of Native feminism to continue only reentrenches male dominance and racist ideaologies. The affirmative denies women the possibility to align themselves within a woman centered identity.

**Smith, 2005** (Andrea, “Native American Feminism, Sovereignty and social change”, Vol. 31, No. 1 (Spring, 2005), pp. 116-13http://www.jstor.org/discover/10.2307/20459010?uid=3739704&uid=2&uid=4&uid=3739256&sid=21101924706531)

(INTERVIEWEE I) I think **one of the reasons why women don't call themselves feminists is because they don't want to make enemies of men,** and I just say, go forth and offend without inhibition. That's generally why I see women hold back, who don't want to be seen as strident. I don't want to be seen as a man-hater, but I think if we have enough man-haters, we might actually have the men change for once.... I think men, in this particular case, **I think men are very, very good at avoiding responsibility and avoiding accountability and avoiding justice. And not calling yourself a feminist, that's one way they do that.** **Well, feminism, that's for white women. Oh feminists, they're not Indian. They're counterrevolutionary. They're all man-haters.** They're all ball-busters. They've gotten out of order. **No,** first of all **that presumes that Native women weren't active in shaping our identity before white women came along. And that abusive male behavior is somehow traditional, and it's absolutely not**. So I **reject that. That's a claim against sover eignty.** I think **that's a claim against Native peoples.** I think **it's an utter act of racism and white supremacy**. And I do think it's

#### This mistake has dire consequences—they entrench the root cause of racism and further entrench violence against women. Their conception of race obscures the “microrelations of power” which makes biopolitical violence inevitable.

Feder 2007

[Emily, “The Dangerous Individual(‘s) Mother: Biopower, Family, and the Production of Race,” *Hypatia* 22.2]

In a series of lectures delivered at the Collège de France in 1975–1976, Foucault took up explicitly for the first time in his work the function of racism in the state and the specific techniques of power associated with it. In his summary lecture, he considered the development of the two different sorts of power he had undertaken to study in the course. The first was the power of the sovereign: from the early modern period, the power embodied by the sovereign is a “right of life and death” over his subjects (the right “to take life or let live”). In the nineteenth century, this power underwent a transformation into what Foucault described as a “right to make live and to let die” (1997/2003, 240–41). But this characterization does not yet fully describe the power of the racist state, or, rather, the functioning of this power in the racist state depends on another level, namely, the “microrelations of power” (Foucault 1977/1980, 199). This level of power is most closely associated in Foucault’s work with the disciplinary power he examined in Discipline and Punish (1977/1995). According to Foucault, a kind of power emerged in the mid-eighteenth century that significantly differed from, but nonetheless dovetailed with, disciplinary power. While disciplinary power was applied to individual bodies, to train and make use of them, this other kind of power exists “at a different level, [functions] on a different scale . . . and makes use of very different instruments” (Foucault 1997/2003, 242). This power, which he called here and in the first volume of The History of Sexuality “biopower” (1976/1990), is “applied not to man-as-body [as disciplinary power is,] but to the living man, to man-as-living-being; ultimately . . . to man-as-species” (242). Biopower, Foucault argued, “inscribes [racism] in the mechanisms of the state” (254). Biopower creates the distinctions—the “biological” distinctions—within the population that form the hierarchy whereby “certain races are described as good and . . . others, by contrast, are described as inferior” (255). This standard is that on which a new conception of “normalization,” or what Foucault here called “regularization,” is established. In this way, biopower—like the disciplinary power from which it developed—is founded upon a gathering of knowledge; it is a power that is grounded upon, made possible by, this knowledge; at the same time, this accumulated knowledge is made to count as knowledge, in virtue 64 Hypatia of power. Among the generalized mechanisms of which the biopolitical state makes use is the measurement of biological processes of the populace—rates of birth, death, and fertility. These are, Foucault said, biopolitics’ “first objects of knowledge and the targets it seeks to control” through natalist policy, for example, but also through efforts to contain disease (243).

#### We should reinterpret the 1AC through the lens of sexual difference

Irigaray 85

[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

Sexual difference is one of the major philosophical issues, if not the issue, of our age. According to Heidegger, each age has one issue to think through, and one only. Sexual difference is prQbably the issue in our time which could be our "salvation" if we thought it through. But, whether I turn to philosophy, to science, or to religion, I find this underlying issue still cries out in vain for our attention. Think of it as an approach that would allow us to check the many forms that destruction takes in our world, to counteract a nihilism that merely affirms the reversal or the repetitive proliferation of status quo values-whether you call them the consumer society, the circularity of discourse, the more or less cancerous diseases of our age, the unreliability of words, the end of philosophy, religious despair or regression to religiosity, scientis tic or technical imperialism that fails to consider the living subject. Sexual difference would constitute the horizon of worlds more fecund than any known to date-at least in the West-and without reducing fecundity to the reproduction of bodies and flesh. For loving partners this would be a fecundity of birth and regeneration, but also the production of a new age of thought, art, poetry, and language: the creation of a new poetics. Both in theory and in practice, everything resists the discovery and affirmation of such an advent or event. In theory, philosophy wants to be literature or rhetoric, wishing either to break with ontology or to regress to the ontological. Using the same ground and the same framework as "first philosophy," working toward its disintegration but without proposing any other goals that might assure new foundations and new works. In politics, some overtures have been made to the world of women. But these overtures remain partial and local: some concessions have been made by those in power, but no new values have been established. Rarely have these measures been thought through and affirmed by women themselves, who consequently remain at the level of critical demands. Has a worldwide erosion of the gains won in women's struggles occurred because of the failure to lay foundations different from those on which the world of men is constructed? Psychoanalytic theory and therapy, the scenes of sexuality as such, are a long way from having effected their revolution. And with a few exceptions, sexual practice today is often divided between two parallel worlds: the world of men and the world of women. A nontraditional, fecund encounter between the sexes barely exists. It does not voice its demands publicly, except through certain kinds of silence and polemics. A revolution in thought and ethics is needed if the work of sexual difference is to take place. We need to reinterpret everything concerning the relations between the subject and discourse, the subject and the world, the subject and the cosmic,' the microcosmic and the macrocosmic. Everything, beginning with the way in which the subject has always been written in the masculine form, as man, even when it claimed to be universal or neutral. Despite the fact that man-at least in French-rather than being neutral, is sexed.

## 3

**War powers prevent terrorist attacks, WMD proliferation and Rouge State aggression**

**Yoo 12** (John, professor of law at the University of California, Berkeley, “War Powers Belong to the President,” http://www.abajournal.com/magazine/article/war\_powers\_belong\_to\_the\_president)

This time, President Obama has the Constitution about right. His exercise of war powers rests firmly in the tradition of American foreign policy. **Throughout** our **history**, **neither presidents nor Congresses have acted under the belief that the Constitution requires a declaration of war** before the U.S. can conduct military hostilities abroad. **We have used force abroad more than 100 times but declared war in only five cases**: the War of 1812, the Mexican-American and Spanish-American wars, and World War I and II. **Without any congressional approval, presidents have sent forces to battle Indians**, Barbary **pirates** and **Russian revolutionaries**; to fight **North Korean** and Chinese **communists** in Korea; to engineer regime changes in South and Central America; and to prevent human rights disasters in the Balkans. Other conflicts, such as the 1991 Persian Gulf war, the 2001 invasion of Afghanistan and the 2003 Iraq war, received legislative “authorization” but not declarations of war. The practice of presidential initiative, followed by congressional acquiescence, has spanned both Democratic and Republican administrations and reaches back from President Obama to Presidents Abraham Lincoln, Thomas Jefferson and George Washington. **Common sense does not support replacing the way our Constitution has worked in wartime with a radically different system that mimics the peacetime balance of powers between president and Congress**. If the issue were the environment or Social Security, Congress would enact policy first and the president would faithfully implement it second. But the Constitution does not duplicate this system in war. Instead, our framers decided that the president would play the leading role in matters of national security. Those in the pro-Congress camp call upon the anti-monarchical origins of the American Revolution for support. If the framers rebelled against King George III’s dictatorial powers, surely they would not give the president much authority. It is true that the revolutionaries rejected the royal prerogative, and they created weak executives at the state level. Americans have long turned a skeptical eye toward the growth of federal powers. But this may mislead some to resist the fundamental difference in the Constitution’s treatment of domestic and foreign affairs. For when the framers wrote the Constitution in 1787 they rejected these failed experiments and restored an independent, unified chief executive with its own powers in national security and foreign affairs. The most important of the president’s powers are commander in chief and chief executive. As Alexander Hamilton wrote in Federalist 74, “The direction of war implies the direction of the common strength, and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority.” Presidents should conduct war, he wrote, because they could act with “decision, activity, secrecy and dispatch.” In perhaps his most famous words, Hamilton wrote: “Energy in the executive is a leading character in the definition of good government. ... It is essential to the protection of the community against foreign attacks.” The framers realized the obvious. **Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by pre-existing legislation**. Instead, **they** can **demand swift,** **decisive action—**sometimes under pressured or even emergency circumstances—**that is best carried out by a branch of government that does not suffer from multiple vetoes** **or is delayed by** **disagreements**. **Congress is too large and unwieldy to take the swift and decisive action required** in wartime. Our framers replaced the Articles of Confederation, which had failed in the management of foreign relations because they had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’ loose, decentralized structure would paralyze American policy while foreign threats grow. **Congress has no political incentive to mount and see through its own wartime policy. Members of Congress**, who are interested in keeping their seats at the next election, **do not want to take stands on controversial issues** where the future is uncertain. **They will avoid like the plague any vote that will anger large segments of the electorate**. **They prefer that the president take the political risks and be held accountable for failure.** Congress’ track record when it has opposed presidential leadership has not been a happy one. Perhaps **the most telling example was the Senate’s rejection of the Treaty of Versailles** at the end of World War I. **Congress’ isolationist urge kept the U**nited **S**tates **out of Europe at a time when democracies fell and fascism grew in their place**. Even as Europe and Asia plunged into war, Congress passed the Neutrality Acts designed to keep the United States out of the conflict. President Franklin Roosevelt violated those laws to help the Allies and draw the nation into war against the Axis. While pro-Congress critics worry about a president’s foreign adventurism, the real threat to our national security may come from inaction and isolationism. Many point to the Vietnam War as an example of the faults of the “imperial presidency.” Vietnam, however, could not have continued without the consistent support of Congress in raising a large military and paying for hostilities. And Vietnam ushered in a period of congressional dominance that witnessed American setbacks in the Cold War and the passage of the ineffectual War Powers Resolution. Congress passed the resolution in 1973 over President Richard Nixon’s veto, and no president, Republican or Democrat, George W. Bush or Obama, has ever accepted the constitutionality of its 60-day limit on the use of troops abroad. No federal court has ever upheld the resolution. Even Congress has never enforced it. Despite the record of practice and the Constitution’s institutional design, critics nevertheless argue for a radical remaking of the American way of war. They typically base their claim on Article I, Section 8, of the Constitution, which gives Congress the power to “declare war.” But these observers read the 18th century constitutional text through a modern lens by interpreting “declare war” to mean “start war.” When the Constitution was written, however, a declaration of war served diplomatic notice about a change in legal relations between nations. It had little to do with launching hostilities. In the century before the Constitution, for example, Great Britain—where the framers got the idea of the declare-war power—fought numerous major conflicts but declared war only once beforehand. Our Constitution sets out specific procedures for passing laws, appointing officers and making treaties. There are none for waging war because the framers expected the president and Congress to struggle over war through the national political process. In fact, other parts of the Constitution, properly read, support this reading. Article I, Section 10, for example, declares that the states shall not “engage” in war “without the consent of Congress” unless “actually invaded, or in such imminent danger as will not admit of delay.” This provision creates exactly the limits desired by anti-war critics, complete with an exception for self-defense. If the framers had wanted to require congressional permission before the president could wage war, they simply could have repeated this provision and applied it to the executive. Presidents, of course, do not have complete freedom to take the nation to war. Congress has ample powers to control presidential policy, if it wants to. Only Congress can raise the military, which gives it the power to block, delay or modify war plans. Before 1945, for example, the United States had such a small peacetime military that presidents who started a war would have to go hat in hand to Congress to build an army to fight it. Since World War II, it has been Congress that has authorized and funded our large standing military, one primarily designed to conduct offensive, not defensive, operations (as we learned all too tragically on 9/11) and to swiftly project power worldwide. **If Congress wanted to discourage presidential initiative in war, it could build a smaller, less offensive-minded military. Congress’** check on the presidency lies not just in the long-term raising of the military. It **can** also **block** **any immediate armed conflict through the power of the purse**. If Congress feels it has been misled in authorizing war, or it disagrees with the president’s decisions, **all it need do is cut off funds**, either all at once or gradually. **It can reduce the size of the military**, shrink or eliminate units, or freeze supplies. Using the power of the purse does not even require affirmative congressional action. Congress can just sit on its hands and refuse to pass a law funding the latest presidential adventure, and the war will end quickly. Even the Kosovo war, which lasted little more than two months and involved no ground troops, required special funding legislation. The framers expected Congress’ power of the purse to serve as the primary check on presidential war. During the 1788 Virginia ratifying convention, Patrick Henry attacked the Constitution for failing to limit executive militarism. James Madison responded: “The sword is in the hands of the British king; the purse is in the hands of the Parliament. It is so in America, as far as any analogy can exist.” Congress ended America’s involvement in Vietnam by cutting off all funds for the war. **Our Constitution has succeeded because it favors swift presidential action in war, later checked by Congress’ funding power.** If a president continues to wage war without congressional authorization, as in Libya, Kosovo or Korea, it is only because Congress has chosen not to exercise its easy check. We should not confuse a desire to escape political responsibility for a defect in the Constitution. **A radical change** **in the system for making war might appease critics** of presidential power. **But it could** also **seriously threaten American national security**. **In order to forestall another 9/11 attack**, **or to take advantage of a window of opportunity to strike terrorists or rogue nations**, **the executive branch needs flexibility**. **It is not hard to think of situations where congressional consent cannot be obtained in time to act.** **Time for congressional deliberation, which leads only to passivity and isolation and not smarter decisions, will come at the price of speed and secrecy.** The Constitution creates a presidency that can respond forcefully to prevent serious threats to our national security. **Presidents can take the initiative and Congress can use its funding power to check them. Instead of demanding a legalistic process** to begin war, **the framers left war to politics.** **As we confront the new challenges of terrorism, rogue nations and WMD proliferation, now is not the time to introduce sweeping, untested changes in the way we make war.**

**Rogue states multiply and cause extinction**

**Johnson, Forbes contributor and Presidential Medal of Freedom winner, 2013**

(Paul, “A Lesson For Rogue States”, 5-8, <http://www.forbes.com/sites/currentevents/2013/05/08/a-lesson-for-rogue-states/>, ldg)

Although we live in a violent world, where an internal conflict such as the Syrian civil war can cost 70,000 lives over a two-year period, there hasn’t been a major war between the great powers in 68 years. **Today’s three superpowers–the U.S., Russia and China–have no conflicts of interest that can’t be resolved through compromise**. All have hair-trigger nuclear alert systems, but the sheer scale of their armories has forced them to take nuclear conflict seriously. Thus, in a real sense, nuclear weapons have succeeded in abolishing the concept of a winnable war. **The same cannot be said,** however, **for certain paranoid rogue states**, namely North Korea and Iran. **If these two nations appear to be prospering**–that is, if their nuclear threats are winning them attention and respect, financial bribes in the form of aid and all the other goodies by which petty dictators count success–**other prospective rogues will join them.** **One such state is Venezuela. Currently its oil wealth is largely wasted, but it is great enough to buy entree to a junior nuclear club.** **Another possibility is Pakistan**, which already has a small nuclear capability and is teetering on the brink of chaos. **Other potential rogues are one or two of the components that made up the former Soviet Union.** All the more reason to ensure that North Korea and Iran are dramatically punished for traveling the nuclear path. But how? It’s of little use imposing further sanctions, as they chiefly fall on the long-suffering populations. Recent disclosures about life in North Korea reveal how effectively the ruling elite is protected from the physical consequences of its nuclear quest, enjoying high standards of living while the masses starve. Things aren’t much better in Iran. Both regimes are beyond the reach of civilized reasoning, one locked into a totalitarian vise of such comprehensiveness as to rule out revolt, the other victim of a religious despotism from which there currently seems no escape. Either country might take a fatal step of its own volition. Were North Korea to attack the South, it would draw down a retribution in conventional firepower from the heavily armed South and a possible nuclear response from the U.S., which would effectively terminate the regime. Iran has frequently threatened to destroy Israel and exterminate its people. Were it to attempt to carry out such a plan, the Israeli response would be so devastating that it would put an end to the theocracy forthwith. **The balance of probabilities is that neither nation will embark on a deliberate war but instead will carry on blustering.** **This, however, doesn’t rule out war by accident–a small-scale nuclear conflict precipitated by the blunders of a totalitarian elite.** Preventing Disaster **The most effective, yet cold-blooded, way to teach these states the consequences of continuing their nuclear efforts would be to make an example of one by destroying its ruling class.** The obvious candidate would be North Korea. Were we able to contrive circumstances in which this occurred, it’s probable that Iran, as well as any other prospective rogues, would abandon its nuclear aims. But how to do this? At the least there would need to be general agreement on such a course among Russia, China and the U.S. But China would view the replacement of its communist ally with a neutral, unified Korea as a serious loss. Compensation would be required. Still, it’s worth exploring. **What we must avoid is a jittery world in which proliferating rogue states perpetually seek to become nuclear ones. The risk of an accidental conflict breaking out that would then drag in the major powers is too great.** This is precisely how the 1914 Sarajevo assassination broadened into World War I. **It is fortunate the major powers appear to have understood the dangers of nuclear conflict without having had to experience them. Now they must turn their minds, responsibly, to solving the menace of rogue states**. **At present all we have are the bellicose bellowing of the rogues and the well-meaning drift of the Great Powers–a formula for an eventual and monumental disaster that could be the end of us all.**

## Case

**The lac is a form of martyrdom, bleeding heart liberals try to take on all the suffering of humanity—all sound and no fury—they do nothing**

**Bruckner**, 19**86** (Pascal, "The Tears of the White Man: Compassion as Contempt." Pg 66-68)

From Guerrillas to Baby Seals

**That is the wellspring of this religion of compassionate sympathy, which strives to outdo itself with regard to everything that lives, suffers, and feels**—from West African peasants to baby seals, to Amnesty International prisoners and fur-bearing animals that have been skinned to warm the shoulders of elegant ladies. **The glorification of benevolent impulses is "an instinctive morality that has no head, but appears to be composed only of a heart and helping hands,”** as Nietzsche said. It is a glorification chanted day and night by the media, press, politicians, and literary and artistic per-sonalities, and it wallows in the most bastardized form of Christianity. **This religion of affliction says that you have, to suffer from life as if it were a sicknesses. As long as men are dying, children are hungry, or prisons are full, no one has the right to be happy**.52 It is a categorical imperative that imposes on us the duty to love man in the abstract, preferably when he is far away. Exactly as Jesus said that **the poor are our masters, Third-Worldists make the suffering of the countries of the Southern hemisphere into a kind of virtuous model**. These tropical lands are beloved because of their failings and their want, and hunger and evil are simultaneously fought, but subtly enhanced. This is the deep ambiguity from which the Catholic Church has never escaped, and it is the same one that contaminates all organizations providing assistance to the Third World. **Even where suffering does not exist, it has to be created, and where it exists, it has to be accentuated. Every- where, the worship of doom requires that we uphold the principal of universal human suffering.** Of course, epidemics, wars, and mil­lions of children with empty stomachs are intolerable, because my fellow man is my brother. But such pain is also necessary, because a world without misfortune is one that has taken the place of heaven. In this way**, people are put in the service of the poor,** but **also in the service of poverty, of sacrifice itself. There must be home-less people and orphans upon whom our liberalism can be prac­ticed**, to remind us constantly that "my Kingdom is not of this world," and to make all joy suspect.53 **As appeals for solidarity are made,** the blows of misfortune are celebrated, **because they are pretexts for humility**. At a time when the Church, through its most qualified spokesmen, is questioning the ambivalence of Christian charity,54 it is the laity—usually Marxists—who are re­viving its most dubious reflexes. To take the most oppressed as a measure, as our good Samaritans do, is to imply that suffering and death are not just failures of an unjust worldwide economic system, but are also part "of the immemorial drama of our rela­tion to the Creator."55 It means that, far from being abominable and outrageous, the oppressed embellish and typify the human condition. **This bottomless pit of suffering 56 becomes the tribunal, the supreme court that admonishes the privileged and leisured mem­bers of the human race.** The fact that people are wallowing in rags and mud strengthens the indictment of silk and ermine. The in­tolerable disorder of the world is constantly underlined, the eye of an avenging God is cast on it, and He watches over it and end­lessly enumerates its weaknesses and faults**. The West is satanized and the Third World becomes fixed in its role of the persecuted, the better to show that no compromise at all is possible between them, aside from the infinite repentance of the West.** With a remarkable talent for spotting every ethnic group, or others who have been subject to persecution in some way,**57 the world is searched for sadness, bad luck, and misfortune**. An ob-scene joy lists the millions of alarms ringing in the world, and a sort of morbid delight is taken in the systematic ruin of the thou­sands of forms of life on the globe. **Such liberals are like hemo­philiacs in love with human suffering, ready to bleed for any cause; they are the professional mourners of modern history. They have no sooner dried their tears when a new subject for lamentation makes them start weeping anew.58** Failures and distress are col­lected because they serve as a clear warning—*you have enjoyed yourselves too much,* you have wasted too much. You must prepare yourselves for abstinence,59 chastity, and a return to the land. Hunger in the world is the punishment for our European sinful­ness. Supermarkets, naked women, homosexuality,60 paper money, Coca Cola—all these are the corruptors of the healthy young **of** the underdeveloped world.61 The theme of atonement used to be one of the political Right, but it is now that of the Left. It is a miraculous reconciliation of the ashes of Marshal Petain and Len­in's tomb under the patronage of a weeping Jesus Christ of Naples.

**Their narratives fuel guilt and hatred that make us kill ourselves**

**Bruckner 83** (Pascal, French journalist and critic, “Tears of the White Man: Compassion as Contempt” p. 146-147 mac/ljm)

The foregoing teaches us this: that **hatred of the West is really a hatred of all cultures concentrated on a single one. In the beginning, one finds nothing loveable in oneself, but in the end, one loses the ability to love others. If the value attached to other cultures is in proportion to the disdain for our own, it is certain that this fascination will decline as one is reconciled with one’s own society, or at best will linger in a kind of esthetic eclecticism. A doctrine that preaches the liberation of the human race cannot possibly be based on the hatred of an entire civilization. Man does not work to diminish but to increase himself, and there is every reason to mistrust a form of humanism that begins by leaving out a quarter of the surface of the globe and calling for the consignment of a whole society to hatred and oblivion. The great religions, philosophies, and belief systems are so linked to one another that to reject one is to reject all. The futile hope that the systematic cultivation of shame will miraculously open us up to far-off societies, and wipe away misunderstandings. Some may say this sense of guilt is our last chance to retain some modicum of respect for the oppressed. But this is pure cynicism, because it means admitting that, aside from a vague feeling of unease, there is nothing that ties us to them. The proclaimed abandonment of Eurocentrism is still an involuntary act, and the first precondition of the acceptance of others is a consensus about our respect from our own culture. Let us become our own friends first, so that we can become friends of others again. If we are tired of our own existence, others are of little use. To love the Third World, for it to have a future, does not require a repudiation of Europe, and the future of industrialized countries does not require that they forget the nations of the Southern hemisphere. Every self-destructive wish carries with it a generalized negativity that envisions the end of the world.**

#### Prioritizing decolonization is a nationalist move that sacrifices the lives of native women and gender-non normative bodies.

Smith 10 (Andrea “Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism” GLQ: A Journal of Lesbian and Gay Studies, Volume 16, Number 1-2, 2010, pp. 42-68 (Article) //)

Thus normative futurity depends on an “origin story.” The future is legitimated as a continuation of the past. Here I am reminded of how I have often heard Native activists say, “Let us not work on domestic or other forms of gender violence now, we must work on survival issues ﬁrst.”25 Of course, since Native women are the women most likely to be killed by acts of gender violence in the United States, they are clearly not surviving. The many works on Native women and feminism that say that we are “American Indian women in that order,” that position gender justice as something to be addressed after decolonization, all speak to how this politics of futurity sacriﬁces the lives of women and those who are not gender nor- mative for the indeﬁnitely postponed postcolonial future. As Denetdale notes, the Native nationhood that becomes articulated under this strategy of futurity is one that supports heteropatriarchy, U.S. imperialism, antiblack racism, and capital- ism. As Edelman states: “Political programs are programmed to reify difference and thus to secure in the form of the future, the order of the same.”26 Edelman calls us to queer “social organization as such” to show how our efforts to secure a better future for our children lead us to excuse injustice in the present.27 At the same time, however, this subjectless critique has its limits with regard to decolonization. For instance, Edelman’s analysis lapses into a vulgar construc- tionism by creating a fantasy that there can actually be a politics without a political program that does not always reinstantiate what it deconstructs, that does not always also in some way reafﬁrm the order of the same. Edelman’s “anti-oppositional” politics in the context of multinational capitalism and empire ensures the continu- ation of that status quo by disabling collective struggle designed to dismantle these systems. That is, it seems difﬁcult to dismantle multinational capitalism, settler colonialism, white supremacy, and heteropatriarchy without some kind of politi- cal program, however provisional it may be. Here, Native studies can temper this subjectless critique by engaging queer of color critique in particular. José Esteban Muñoz notes, for example, that an anti-oppositional politic ultimately opts out of relationality and politics. “Relationality is not pretty, but the option of simply opting out of it . . . is imaginable only if one can frame queerness as a singular abstraction that can be subtracted and isolated from a larger social matrix.”28 Furthermore, an anti-oppositional politic can quickly lapse into a leftist cynicism, in which all politics are dismissed as “reproductive” with no disruptive potential. This cynicism then becomes an apology for maintaining the status quo. As Muñoz argues: “The here and now is simply not enough. Queerness should and could be about a desire for another way of being in both the world and time, a desire that resists mandates to accept that which is not enough.”29 A politics of “opting out” clearly privileges those who are relatively more comfortable under the current situation. For indig- enous peoples, however, who face genocide, as well as all peoples subjected to conditions of starvation, violence, and war, opting out is simply not an option. The question then arises, who will be left when we opt out of a struggle against white supremacy, settler colonialism, and capitalism? Those most imme- diately sacriﬁced in this “anti-oppositional” politic are indigenous peoples, poor peoples, and all those whose lives are under immediate attack. Thus, while Edel- man contends that the Child can be analytically separated from actual children, Muñoz demonstrates that Edelman’s Child is nonetheless a disavowed white Child. “The future is the stuff of some kids. Racialized kids, queer kids, are not the sovereign princes of futurity. [Edelman’s] framing nonetheless accepts and repro- duces this monolithic future of the child that is indeed always already white.”30 An indigenous critique must question the value of “no future” in the con- text of genocide, where Native peoples have already been determined by settler colonialism to have no future. If the goal of queerness is to challenge the repro- duction of the social order, then the Native child may already be queered. For instance, Colonel John Chivington, the leader of the famous massacre at Sand Creek, charged his followers to not only kill Native adults but to mutilate their reproductive organs and to kill their children because “nits make lice.”31 In this context, the Native Child is not the guarantor of the reproductive future of white supremacy; it is the nit that undoes it. In addition, while both “tradition” and “the future” must be critically engaged, it does not follow that they can be dismissed. As with identity, the notion of a tradition-free subject simply reinstantiates the notion of a liberal subject who is free from past encumbrances. As Elizabeth Povinelli’s work suggests, the liberal subject articulates itself as an autological subject that is completely self- determining over and against the “genealogical” subject (i.e., the indigenous sub- ject) trapped within tradition, determined by the past and the future.32 Essentially then, this call for “no future” relies on a primitivizing discourse that positions the [white] queer subject in relation to a premodern subject who is locked in history. The “Native” serves as the origin story that generates the autonomous present for the white queer subject.

**The negative romanticizes the idea of an authentic existence - where humans become one with the land through a connection with the native identity. When the idealized Indian image turns out to be false, the radical left destroys real Indians in favor of the false image.**

**Gagne ‘3**

[Karen M., Colonial Research Working Group - State University of New York, Binghamton, “Falling in Love with Indians: The Metaphysics of Becoming America”; CR: The New Centennial Review 3.3 (2003) 205-233; ProjectMuse //wyo-hdm]

**This real Indian emergence**, simultaneously **as a necessity for authenticity and a hindrance to white middle-class** meaning-making (utopia requiring the absence of the native), **would climax with the "counterculture Indians in the New Age."** Communalists and others of the 1970s would work excessively hard at rejecting their middle-class upbringing, perceived in terms of "consumptive excess, alienated individualism, immoral authority, and capitalism red in tooth and claw" (Deloria 1998, 155). At the same time, interactions with Native Americans remained decidedly unpleasant. Deloria's Playing Indian examines how **whites have historically turned to Indianness to challenge contradictions, while acting out a desire to "have their cake and eat it too."** Therefore, as Deloria notes, it should be of no surprise that the re-imagining of the Self by these "rebels" in the postmodern era would again turn to Indianness for reassuring identities in a world seemingly out of control. **Playing Indian served as a form of oppositional culture** by young Americans—as New Leftists, as antiwar protesters, as rebels. **To play Indian "was to become vicariously a victim of United States imperialism**" (161). However, as with the Hobbyists, utopian **reformists would repeatedly experience a disjuncture between meaning and social reality**—**and this** [End Page 213] **would happen most directly when white people playing Indian "found themselves face-to-face with native people**" (158). **When communalists, environmentalists, spiritualists, and other counterculturalists searched reservations for authenticity and inspiration, they unexpectedly found native communities to be socially restrictive and intolerant of these visitors' aggressive individualism.**

**The only way to avoid this turn is if the negative asserts that through their alternative non-natives begin to understand the error of their ways — but this causes the new-left to become Indian in order to disavow the destructive side of whiteness —diffusing blame and robbing the power of the gesture**

**Smith ’91**

[Andy (Cherokee woman, a co-founder of Women of All Red Nations (W.A.R.N.) and is active in the anti- sexual assault movement); “FOR ALL THOSE WHO WERE INDIAN IN A FORMER LIFE”; http://ishgooda.org/racial/fem1.htm]

**Indian religions are community-based, not proselytizing**, religions. **There is not one Indian religion**, as many New Ager's would have you believe. Indian spiritual practices reflect the needs of a particular community. I**ndians do not generally believe that their way is "the" way, and consequently, they have no desire to tell outsiders about their practices.** A medicine woman would be more likely to advise a white woman to look into her own culture and find what is liberating in it. However, white women seem determined NOT to look into their own cultures for sources of strength. This is puzzling, since pre-Christian European cultures are also earth-based and contain many of the same elements that white are ostensibly looking for in Native American cultures. This phenomenon leads me to suspect that there is a more insidious motive for white "feminists" latching onto Indian spirituality. **When white "feminists" see how white people have historically oppressed others and how they are coming to very close to destroying the earth, they often want to dissociate themselves from their whiteness. They do this by opting to "become Indian." In this way, they can escape responsibility and accountability for white racism**. Of course, **white "feminists" want to become only partly Indian. They do not want to be part of our struggles for survival against genocide; they do not want to fight for treaty rights or an end to substance abuse or sterilization abuse. They do not want to do anything that would tarnish their romanticized notions of what it means to become an Indian.**

**Imperialism turn-We cannot continue to use these terms, it is more than just being politically correct, in order to liberate ourselves from our imperialism**

**Bird ‘99**

[[Dr. Michael Yellow Bird](mailto:michaely@sw1.socwel.ukans.edu), a citizen of the Sahnish (Arikara) and Hidatsa First Nations, is Assistant Professor and Director of the Office for the Study of Indigenous Social and Cultural Justice in the School of Social Welfare, University of Kansas. “Indian, American Indian, and Native Americans: Counterfeit Identities” Indigenous People of Africa and America Magazine, 1999. <<http://www.ipoaa.com/indian_american_indian_counterfeit_identities.htm>>//wyo-hdm]

The continued use of Indian, American Indian, and Native American maintains counterfeit identities for Indigenous Peoples. **As part of the decolonization of Indigenous scholarship and thinking, I suggest these terms must be discarded in favor of more empowering descriptors. To me, ceasing to call Indigenous Peoples Indians, American Indians, or Native Americans is more than an attempt at "political correctness," or a change in semantics. It is an act of intellectual liberation that corrects a distorting narrative of imperialist "discovery and progress" that has been maintained far too long by Europeans and European Americans**

# 2NC

**The premise of their response to framework is that issues of identity/race/culture should be protected from exposure to criticism laden debate impedes the culture of democratic debate that’s key to effective decisionmaking it’s also wrong to claim that framework oppresses identity or alternate styles-our argument is style-neutral- it simply asks that narrative/experience/etc be used to support a policy conclusion**

**Anderson 06**

(Amanda Anderson is the Andrew W. Mellon Professor for the Humanities at Brown University. She is Director of the School of Criticism and Theory at Cornell University. Until spring of 2012 she was Caroline Donovan Professor of English Literature, and the head of the English department at Johns Hopkins University. “Reply to My Critic(s)” Project Muse DA: 5-23-13//wyoccd)

**My** recent **book**, The Way We Argue Now, has in a sense two theses. In the first place, the **book makes the case for the importance of debate and argument to any vital democratic or pluralistic intellectual culture. This is in many ways an unexceptional position, but the premise of the book is that the claims of reasoned argument are often trumped, within the current intellectual terrain, by appeals to cultural identity and what I gather more broadly under the rubric of ethos, which includes cultural identity but also forms of ethical piety and charismatic authority.** In promoting argument as a universal practice keyed to a human capacity for communicative reason, my book is a critique of relativism and identity politics, or the notion that forms of cultural authenticity or group identity have a certain unquestioned legitimacy, one that cannot or should not be subjected to the challenges of reason or principle, precisely because reason and what is often called "false universalism" are, according to this pattern of thinking, always involved in forms of exclusion, power, or domination. My book insists, by contrast, that argument is a form of respect, that the ideals of democracy, whether conceived from a nationalist or an internationalist perspective, rely fundamentally upon procedures of argumentation and debate in order to legitimate themselves and to keep their central institutions vital. And **the idea that one should be protected from debate, that argument is somehow injurious to persons if it does not honor their desire to have their basic beliefs and claims and solidarities accepted without challenge, is strenuously opposed**. As is the notion that any attempt to ask people to agree upon processes of reason-giving argument is somehow necessarily to impose a coercive norm, one that will disable the free expression and performance of identities, feelings, or solidarities. **Disagreement is**, by the terms of my book**, a form of respect**, not a form of **disrespect. And by disagreement, I don't mean simply to say that we should expect disagreement rather than agreement, which is a frequently voiced**—if misconceived—criticism of Habermas. Of course we should expect disagreement. My point is that **we should focus on the moment of dissatisfaction in the face of disagreement—the internal dynamic in argument that imagines argument might be the beginning of** [End Page 281] **a process of persuasion and exchange that could end in agreement** (or partial agreement). **For those who advocate reconciling ourselves to disagreements rather than arguing them out, by contrast, there is a complacent—and in some versions, even celebratory—attitude toward fixed disagreement**. Refusing these options, I make the case for dissatisfied disagreement in the final chapter of the book and argue that people should be willing to justify their positions in dialogue with one another, especially if they hope to live together in a post-traditional pluralist society.¶ One example of the trumping of argument by ethos is the form that was taken by the late stage of the Foucault/Habermas debate, where an appeal to ethos—specifically, an appeal to Foucault's style of ironic or negative critique, often seen as most in evidence in the interviews, where he would playfully refuse labels or evade direct answers—was used to exemplify an alternative to the forms of argument employed by Habermas and like-minded critics. (I should pause to say that I provide this example, and the framing summary of the book that surrounds it, not to take up airtime through expansive self-reference, but because neither of my respondents provided any contextualizing summary of the book's central arguments, though one certainly gets an incremental sense of the book's claims from Bruce Robbins. Because I don't assume that readers of this forum have necessarily read the book, and because I believe that it is the obligation of forum participants to provide sufficient context for their remarks, I will perform this task as economically as I can, with the recognition that it might have carried more weight if provided by a respondent rather than the author.)¶ The Foucauldian counter-critique **importantly emphasizes a relation between style and position**, but it obscures (1) the importance or value of the Habermasian critique and (2) **the possibility that the other side of the debate might have its own ethos to advocate, one that has precisely to do with an ethos of argument, an ideal of reciprocal debate that involves taking distance on one's pre-given forms of identity or the norms of one's community, both so as to talk across differences and to articulate one's claims in relation to shared and even universal ideals**. And this leads to the second thesis of the book, the insistence that an emphasis on ethos and character is interestingly present if not widely recognized in contemporary theory, and one of the ways its vitality and existential pertinence makes itself felt (even despite the occurrence of the kinds of unfair trumping moves I have mentioned). We often fail to notice this, because identity has so uniformly come to mean sociological, ascribed, or group identity—race, gender, class, nationality, ethnicity, sexuality, and so forth. Instances of the move toward character and ethos include the later Foucault (for whom ethos is a central concept), cosmopolitanism (whose aspiration it is to turn universalism into an ethos), and, more controversially, proceduralist ethics and politics (with its emphasis on sincerity and civility). Another version of this attentiveness to ethos and character appears in contemporary pragmatism, with its insistence on casualness of attitude, or insouciance in the face of [End Page 282] contingency—recommendations that get elevated into full-fledged exemplary personae in Richard Rorty's notion of the "ironist" or Barbara Herrnstein Smith's portrait of the "postmodern skeptic." These examples—and the larger claim they support—are meant to defend theory as still living, despite the many reports of its demise, and in fact still interestingly and incessantly re-elaborating its relation to practice. This second aspect of the project is at once descriptive, motivated by the notion that characterology within theory is intrinsically interesting, and critical, in its attempt to identify how characterology can itself be used to cover or evade the claims of rational argument, as in appeals to charismatic authority or in what I identify as narrow personifications of theory (pragmatism, in its insistence on insouciance in the face of contingency, is a prime example of this second form). And as a complement to the critical agenda, there is a reconstructive agenda as well, an attempt to recuperate liberalism and proceduralism, in part by advocating the possibility, as I have suggested, of an ethos of argument.¶ Robbins, in his extraordinarily rich and challenging response, zeroes in immediately on a crucial issue: who is to say exactly when argument is occurring or not, and what do we do when there is disagreement over the fundamentals (the primary one being over what counts as proper reasoning)? Interestingly, Robbins approaches this issue after first observing a certain tension in the book: on the one hand, The Way We Argue Now calls for dialogue, debate, argument; on the other, its project is "potentially something a bit stricter, or pushier: getting us all to agree on what should and should not count as true argument." What this point of entry into the larger issue reveals is a kind of blur that the book, I am now aware, invites. On the one hand, the book anatomizes academic debates, and in doing so is quite "debaterly." This can give the impression that what I mean by argument is a very specific form unique to disciplinary methodologies in higher education. But the book is not generally advocating a narrow practice of formal and philosophical argumentation in the culture at large, however much its author may relish adherence to the principle of non-contradiction in scholarly argument. I take pains to elaborate an ethos of argument that is linked to democratic debate and the forms of dissent that constitutional patriotism allows and even promotes. In this sense, while argument here is necessarily contextualized sociohistorically, the concept is not merely academic. It is a practice seen as integral to specific political forms and institutions in modern democracies, and to the more general activity of critique within modern societies—to the tradition of the public sphere, to speak in broad terms. Additionally, insofar as argument impels one to take distance on embedded customs, norms, and senses of given identity, it is a practice that at once acknowledges identity, the need to understand the perspectives of others, and the shared commitment to commonality and generality, to finding a way to live together under conditions of difference.¶ More than this: the book also discusses at great length and from several different angles the issue that Robbins inexplicably claims I entirely ignore: the [End Page 283] question of disagreement about what counts as argument. In the opening essay, "Debatable Performances," I fault the proponents of communicative ethics for not having a broader understanding of public expression, one that would include the disruptions of spectacle and performance. I return to and underscore this point in my final chapter, where I espouse a democratic politics that can embrace and accommodate a wide variety of expressions and modes. This is certainly a discussion of what counts as dialogue and hence argument in the broad sense in which I mean it, and in fact I fully acknowledge that taking distance from cultural norms and given identities can be advanced not only through critical reflection, but through ironic critique and defamiliarizing performance as well. But I do insist—and this is where I take a position on the fundamental disagreements that have arisen with respect to communicative ethics—that when they have an effect, these other dimensions of experience do not remain unreflective, and insofar as they do become reflective, they are contributing to the very form of reasoned analysis that their champions sometimes imagine they must refuse in order to liberate other modes of being (the affective, the narrative, the performative, the nonrational**). If a narrative of human rights violation is persuasive in court, or in the broader cultural public sphere, it is because it draws attention to a violation of humanity that is condemned on principle; if a performance jolts people out of their normative understandings of sexuality and gender, it prompts forms of understanding that can be affirmed and communicated and also can be used to justify political positions and legislative agendas.**

**Bounded knowledge is good – debate should be maintained as a disciplinary space- key to unlocking critically pedagogies potential for social justice**

**McArthur 10**

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Holyrood Road, Edinburgh EH8 8AQ, UK Studies in Higher Education Vol. 35, No. 3, May 2010 ebsco DA: 5-24-13//wyoccd)

Giroux’s **critical pedagogy rests upon a commitment to** public spaces for learning, where diverse forms of **knowledge can be exchanged and developed; where students and teachers engage critically with those knowledges,** and with one another; and through which genuine democratic ideals can be pursued. **Disciplines are regarded as antithetical to these aims, because they are considered closed, elitist and to perpetuate conservative forms of relationships and types of knowledge. Thus, critical pedagogy seeks, instead, to escape disciplinary boundaries and build interdisciplinary spaces in which such public and political realms can exist and prosper**. Looking anew at disciplines I suggest that there is an alternative view of disciplines to that outlined above. In this view disciplines are complex, contested and permeable spaces. I further propose that, **if critical pedagogues** such as Giroux can, in Proust’s term, **look with new eyes at disciplines, they will hopefully see dynamic and safe structures that could provide real and robust allies in the fight to protect higher education from narrow, largely economic, interpretations of its role, and instead promote higher education as a democratic space which supports greater social justice.** In this section I seek to encourage this new look at disciplines by first outlining my conception of them as complex, contested and permeable structures, in contrast to Giroux’s perspective of disciplines as static, elitist and limiting. Secondly, I argue **that interdisciplinarity and disciplinarity should be thought of as complementary spaces, rather than alternatives**. Finally, I discuss how **the act of looking anew at disciplines may help critical pedagogy strengthen its own theoretical and practical stances. If critical pedagogy is to challenge narrow commercial and commodified conceptualisations of higher education, it needs to refocus on its commitment to action, rather than pure theory,** and looking anew at disciplines as potential allies may be a first step in doing this. Disciplines: complex, contested and permeable I am not arguing that disciplines have not at various times acted conservatively or have not valued stasis over change. Certainly, at different times, disciplinary structures have proven effective homes for forces resistant to change – both epistemologically and politically. Many of us can no doubt relate to the description of ‘the food-fights that go on within disciplines’, and ‘the most absurd yet intense and devastating attempts to expel from the center and marginalize people whose perspectives are different’ (Bérubé and Nelson 1995, 192). My argument, instead, is that these examples or snapshots of experience do not tell the whole story about the dynamic nature of disciplinarity. Those who take a long-term historical view of the development of disciplines, such as the authors of the essays within Anderson and Valente’s (2002) volume on Disciplinarity at the fin de siècle, reveal the degree of change, debate and contestation – of evolution, fracturing and succession – within such disciplinary structures. Thus, the editors state: ‘what has often been lacking in our current disciplinary debates is a longer perspective that would enable us to understand better their historical conditions and developments’ (1). Taking this long view is, I suggest, essential to looking anew at disciplines. **It is also rather paradoxical that critical pedagogues accuse disciplines of privileging certain forms of knowledge; critical pedagogy does this too. Such privileging is indeed, surely part of the inherently political nature of pedagogy?** What is crucial are the choices made between different forms of knowledge, the awareness of such choices, and the motivations for and outcomes of these choices. **If** Giroux’s **critical pedagogy could take a sufficiently long-term view of the development of disciplines, this would afford a better understanding of their intrinsically dynamic nature. Without this long view, there is the danger of falling into the trap of** what Plotnitsky (2002, 75) describes as **‘extreme epistemological conservatism’** in one’s analysis of disciplines. In his illuminating account of the development of quantum physics, Plotnitsky explores the link between disciplinarity and radicality. He argues that non-classical epistemology, ways of knowing that differ from that upon which the discipline has previously been based, form part of the ongoing development of a discipline such as physics. Indeed, ‘**Radicality becomes the condition of disciplinarity rather than, as it may appear at first sight and as it is often argued by the proponents of classical theories, being in conflict with it**’ (2002, 49). In contrast, Giroux appears to suggest that only in interdisciplinary fields such as cultural studies can non-classical or alternative forms of knowledge be brought together with more traditional epistemologies (Aronowitz and Giroux 1991; Giroux 1992). Giroux’s position is based upon his strong association of disciplines with canonical forms of knowledge and a rigid adherence to textual authority. The alternative is to see disciplines as Davidson (2004) does; as spaces with boundaries that are ‘flexible, culturally determined, interdependent and relative to time’ (302). Parker’s (2002) concept of ‘new disciplinarity’, encompassing a distinction between subjects and disciplines, helps illuminate the emancipatory potential of disciplinary spaces. She describes subjects as groupings which ‘can be reduced to common transferable and equivalent subject-specific skills’ (375), with an emphasis on ‘the end product, and skills and competencies’ that aggregate over set periods (375). It is true that subjects are inclusive, in the sense that nearly anyone can take part in studying them, but, as Parker argues, they are also passive – ‘they are taught, learned, delivered’ (374). In contrast, Parker views a discipline as something that is ‘practiced and engaged with’ (375). Disciplines are ongoing, evolving communities. Subjects permit only transmissive or bankable knowledge, while disciplines allow for transgressive and creative approaches. **Disciplines offer spaces for students and teachers to interact critically. Disciplines can encompass diverse and shifting knowledge communities.** Giroux’s fear that disciplines impose particular forms of knowledge, discourse and learning on students is not without foundation. However, I argue it is based on examples of poor practice, rather than anything inherent to the nature of academic disciplines. Disciplines are, and should be, sites of contestation and challenge; of competing and conflicting ‘takes’ on knowledge. What disciplines have internally in common is a shared discourse in which to undertake such conflict, and to do so with rigour. In her discussion of attitudes to disciplinarity among French academics, Donahue (2004) observes that: ‘They accounted for its contestatory nature, describing their own research groups as negotiated, arguing back-and-forth, and suggesting that this contested nature is part of what students must learn to navigate’ (68).

**The state is not inherently racist—many state structures exist that facilitate coexistence of different ethnic and racial groups. It is possible to improve the state.**

**Dean 06** (Jodi, Professor of Political Science, Hobart and William Smith College, “Is the state racist by nature?”) http://jdeanicite.typepad.com/i\_cite/2006/03/is\_the\_state\_ra.html#more

I don't think so. Overall, I think Old reads **the state as** such as fascist--**rooted in an racial identity that seeks** to establish its (impossible) unity through **the violent annihilation of difference**. This **isn't convincing** to me **because there are**, in fact, **multicultural states and constitutions that seek promote or preserve different ethnicities**. And, I don't read all claims made in terms of the inhabitants of a state (of its citizenry or people) as necessarily racialized or racializing, though they can be. Yet, I have a number of more specific problems with Old's view. First, **I don't think there is such a beast as the modern state**. As I understand it, there have been different kinds of states. The fact that there are different states recognized within the UN, say, or part of the international arena, does not mean that the states are states in the same way; it does not mean that, the efforts of hegemons to the contrary, all states are based in nations; nor does it mean that all nations are totalities or even wanna-be totalities. This suggests, then, **that there is not one form or nature of the state that even could be considered racist**. Second, and consequently, it seems important here to consider differences among state forms and histories. China, for example, didn't take its structure from religious-race wars. Anti-colonial and anti-imperial struggle impacted the state forms that arose in their wake. Third, **the ability to wage total war and annihilate other races doesn't seem to me to characterize the structure or goals of most states**. If so, then we would find the vast majority to be failure as states. Now, maybe they are failures, but surely for other reasons. Contemporary international relations theorists Mark Laffey and Jutta Weldes (in their chapter to the book Empire's New Clothes) can help this discussion. Rejecting the all too limited Westphalian model of states, they point out that the sovereignty narrative is state-centric: **Many social processes**--such as the internationalization of capital or modernity--and relations--such as those of gender, class, race, or colonialism--**transcend state boundaries in complex and significant ways.** Indeed, reflection on the past three hundred or so years--since Westphalia--indicates that the dominant political form has in any case been the imperial state and empire rather than the sovereign state. Laffey and Weldes also take up the Eurocentricism of Westphalian sovereignty, **rejecting the idea that the territorial state arose in Europe and was imposed on the rest of the world. Why? Because this model neglects the persistent and integral relations between Europe and the non-European world and their joint role in generating the characteristic social forms of modernity, including the state itself**. As Fernando Coronil observes, for example: "**Since the European conquest of the Americans, the West and its peripheries have been mutually constituted through processes of imperial transculturation and capital accumulation** that continue, in different forms, in the present." **They also observe the limitation of a state centered approach to analyzing state violence** (a point relevant to Old's claim regarding total war) European states have used foreign military and security manpower. **Recruiting local soldiers and police forces from within colonized territories was integral to imperial relations between Europe and non-Europe** throughout the period marked by the so-called Westphalian sovereign state, as the British empire in India attests...**the sovereignty narrative obscures the international constitution of state power, a routine practice in the history of imperial relations.**

**Understanding institutional policy is key to reform of racial hierarchies**

**Winant 2k** (Howard, Temple University “Race and Race Theory” Annual Review of Sociology, 2000, http://www.soc.ucsb.edu/faculty/winant/Race\_and\_Race\_Theory.html)

To summarize **the racial formation approach**: (1) It **views the meaning of race and the content of racial identities as unstable** and politically contested; (2) It **understands racial formation as the intersection**/conflict **of racial "projects" that combine** representational/**discursive elements with** structural/**institutional ones**; (3) It **sees these intersections as** iterative **sequences of interpretations** ("articulations") **of the meaning of race that are open to many types of agency**, from the individual to the organizational, **from the local to the global.** If we are **to understand the changing significance of race** at the end of the 20th century, **we must develop a more effective theory of race. The racial formation perspective** at least **suggests** some **directions** in which such a theory should be pursued. As in the past, racial theory today is shaped by the large-scale sociopolitical processes it is called upon to explain. Employing a racial formation perspective, it is possible to glimpse a pattern in present global racial dynamics. That pattern looks something like the following: in the period during and after WWII an enormous challenge was posed to established systems of rule by racially-defined social movements around the world. Although these movement challenges achieved some great gains and precipitated important reforms in state racial policy, neither the movements nor the reforms could be consolidated. At the end of the century the world as a whole, and various national societies as well, are far from overcoming the tenacious legacies of colonial rule, apartheid, and segregation. All still experience continuing confusion, anxiety, and contention about race. Yet the legacies of epochal struggles for freedom, democracy, and human rights persist as well. Despite the enormous vicissitudes that demarcate and distinguish national conditions, historical developments, roles in the international market, political tendencies, and cultural norms, **racial differences** often **operate** as they did in centuries past: **as a way of restricting the political influence**, not just of racially subordinated groups, but **of all those at the bottom end of the system of social stratification.** In the contemporary era, **racial beliefs and practices have become** far more **contradictory and complex**. The "old world racial order" has not disappeared, but it has been seriously disrupted and changed. **The legacy of democratic, racially oriented movements, and anti-colonialist initiatives** throughout the world's South, **remains a force to be reckoned with. But the** incorporative (or if one prefers this term, "**hegemonic**") **effects of decades of reform-oriented state racial policies have** had a profound effect as well: they have **removed much of the motivation for sustained, anti-racist mobilization.** In this unresolved situation, **it is unlikely that attempts to address worldwide dilemmas of race** and **racism by ignoring** or "transcending" **these themes, for example by adopting** so-called **"colorblind"** or "differentialist" **policies, will have much effect.** In the past the centrality of race deeply determined the economic, political, and cultural configuration of the modern world. Although recent decades have seen a tremendous efflorescence of movements for racial equality and justice, **the legacies of centuries of racial oppression have not been overcome.** Nor is a vision of racial justice fully worked out. Certainly the idea that such justice has already been largely achieved -- as seen in the "colorblind" paradigm in the US, the "non-racialist" rhetoric of the South African Freedom Charter, the Brazilian rhetoric of "racial democracy," or the emerging "racial differentialism" of the European Union -- remains problematic. **Will race ever be "transcended"? Will the world ever "get beyond" race? Probably not. But the entire world still has a chance of overcoming the stratification, the hierarchy, the** taken-for-granted **injustice and inhumanity that** so often **accompanies the "race concept."** Like religion or language, **race can be accepted as part of the** spectrum of the **human condition, while it is simultaneously** and categorically **resisted as a means of stratifying national or global societies. Nothing is more essential in the effort to reinforce democratic commitments, not to mention global survival and prosperity, as we enter a new millennium.**

#### A limited topic over war powers authority is key to solving the harms of the 1AC – it allows for an engaged public that can expose the hypocrisy of the federal government – only focus on specific policy questions can actualize change by making it relevant to policy-makers – the aff is more likely to cause disengagement and moral quietude than actual change

**Mellor 13**

The Australian National University, ANU College of Asia and the Pacific, Department Of International Relations,   
“Why policy relevance is a moral necessity: Just war theory, impact, and UAVs,” European University Institute, Paper Prepared for BISA Conference 2013, DOA: 8-14-13

**This** section of the paper **considers** more generally **the need for** just war **theorists to engage with policy debate** **about the use of force**, **as** **well as to engage with the** more **fundamental moral and philosophical principles** of the just war tradition. **It draws on** John **Kelsay’s** **conception of just war thinking as being a social practice**,35 **as well as on** Michael **Walzer’s understanding of the role of the social critic in society**.36 It argues that the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.”37 Kelsay argues that: **[T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force** . . . **citizens who choose to speak in just war terms express commitments** . . . [i**]n the process of giving and asking for** **reasons for going to war**, **those who argue** in just war terms **seek to influence policy** **by persuading others that their analysis provides a way to express and fulfil the desire that military actions be** both **wise and just.38** He also argues that “**good just war thinking involves continuous and complete deliberation**, in the sense that one attends to all the standard criteria at war’s inception, at its end, and **throughout the course of the conflict**.”39 **This** is important as it **highlights the need for** just war **scholars to engage** **with the ongoing operations in war and the specific policies that are involved**. **The question of** **whether a particular** war is just or unjust, and the question of whether a particular **weapon (like drones**) **can be used in accordance with the jus in bello criteria**, only **cover a part of the overall justice of the war**. **Without an engagement with the reality of war**, **in** **terms of the policies used** in waging it, **it is impossible to engage with the “moral reality of war,”40 in terms of being able to discuss it and judge it in moral terms** Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. The just war theorist, **as a social critic, must be involved with his or her own society and its practices**. In the same way that the social critic’s distance from his or her society is measured in inches and not miles,41 the just war **theorist must be close to and must understand the language through which war is constituted, interpreted and reinterpreted**.**42 It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to** **demonstrate** its **hypocrisy** **and to show the gap that exists** between its practice and its values.43 **The tradition** itself **provides a set of** **values and principles and**, as argued by Cian O’Driscoll, **constitutes a “language of engagement**” **to spur participation in public and political debate**.44 This language is part of “our common heritage, the product of many centuries of arguing about war.”45 **These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force**.46 **By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis. Engaging with the reality of war requires** recognising that war is, as Clausewitz stated, **a continuation of policy**. **War**, according to Clausewitz, **is subordinate to politics and to political choices and these political choices can, and must, be judged and critiqued**.47 **Engagement and political debate are morally necessary** **as the alternative is disengagement and moral quietude**, **which is a sacrifice of the obligations of citizenship**.48 **This engagement must bring** just war **theorists into contact with the policy makers** **and** **will require work that is** accessible and **relevant to policy makers**, **however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power.** **By engaging in detail** **with the policies being pursued** and their concordance or otherwise with **the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language.** **In contrast to the view**, **suggested** by Kenneth **Anderson, that “the public cannot be made part of the debate**” **and that “[w]e are** necessarily **committed into the hands of our political leadership**”,49 it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. **To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda,50 is a grotesque act of intellectual irresponsibility**. As Walzer has argued, it is precisely because it is “our country” that we are “especially obligated to criticise its policies.”51 This paper has discussed the empirics of the policies of drone strikes in the ongoing conflict with those associate with al Qaeda. It has demonstrated that there are significant moral questions raised by the just war tradition regarding some aspects of these policies and it has argued that, thus far, just **war scholars have not paid sufficient attention or engaged in sufficient detail with the policy implications of drone use.** **As such it has been argued that it is necessary for just war theorists to engage more directly with these issues and to ensure that their work is policy relevant**, **not in a utilitarian sense of abdicating from speaking the truth in the face of power**, **but by forcing policy makers to justify** their **actions according to the principles of the just war tradition, principles which they invoke themselves in formulating policy.** **By highlighting hypocrisy and providing the tools and language** **for the interpretation of action**, **the just war tradition provides the basis for the public engagement and political activism that are necessary for democratic politics.52**

### Topic

#### Debating the law teaches us how to make it better – rejection is worse

Todd Hedrick 12, Assistant Professor of Philosophy at Michigan State University, Sept, Democratic Constitutionalism as Mediation: The Decline and Recovery of an Idea in Critical Social Theory, Constellations Volume 19, Issue 3, pages 382–400

Habermas’ alleged abandonment of immanent critique, however, is belied by the role that the democratic legal system comes to play in his theory. While in some sense just one system among others, it has a special capacity to shape the environments of other systems by regulating their interaction. Of course, the legal system is not the only one capable of affecting the environments of other systems, but law is uniquely open to inputs from ordinary language and thus potentially more pliant and responsive to democratic will formation: “Normatively substantive messages can circulate throughout society only in the language of law … . Law thus functions as the ‘transformer’ that guarantees that the socially integrating network of communication stretched across society as a whole holds together.”55 This allows for the possibility of consensual social regulation of domains ranging from the economy to the family, where actors are presumed to be motivated by their private interests instead of respect for the law, while allowing persons directed toward such interests to be cognizant that their privately oriented behavior is compatible with respect for generally valid laws. While we should be cautious about automatically viewing the constitution as the fulcrum of the legal order, its status as basic law is significant in this respect. For, recalling Hegel's broader conception of constitutionalism, political constitutions not only define the structure of government and “the relationship between citizens and the state” (as in Hegel's narrower “political” constitution); they also “implicitly prefigure a comprehensive legal order,” that is, “the totality comprised of an administrative state, capitalist economy, and civil society.”56 So, while these social spheres can be conceived of as autonomous functional subsystems, their boundaries are legally defined in a way that affects the manner and degree of their interaction: “The political constitution is geared to shaping each of these systems by means of the medium of law and to harmonizing them so that they can fulfill their functions as measured by a presumed ‘common good’.”57 Thus, constitutional discourses should be seen less as interpretations of a positive legal text, and more as attempts to articulate legal norms that could shift the balance between these spheres in a manner more reflective of generalizable interests, occurring amidst class stratification and cultural pluralism.¶ A constitution's status as positive law is also of importance for fundamentally Hegelian reasons relating to his narrower sense of political constitutionalism: its norms must be public and concrete, such that differently positioned citizens have at least an initial sense of what the shared hermeneutic starting points for constitutional discourse might be. But these concrete formulations must also be understood to embody principles in the interest of all citizens, so that constitutional discourse can be the site of effective democratic will formation concerning the basic norms that mediate between particular individuals and the general interests of free and equal citizens. This recalls Hegel's point that constitutions fulfill their mediational function by being sufficiently positive so as to be publicly recognizable, yet are not exhausted by this positivity – the content of the constitution is instead filled in over time through ongoing legislation. In order to avoid Hegel's foreshortened conception of public participation in this process and his consequent authoritarian tendencies, Habermas and, later, Benhabib highlight the importance of being able to conceive of basic constitutional norms as themselves being the products of public contestation and discourse. In order to articulate this idea, they draw on legal theorists like Robert Cover and Frank Michelman who characterize this process of legal rearticulation as “jurisgenesis”58: a community's production of legal meaning by way of continuous rearticulation, through reflection and contestation, of its constitutional project.¶ Habermas explicitly conceives of the democratic legal order in this way when, in the context of considering the question of how a constitution that confers legitimacy on ordinary legislation could itself be thought to be democratically legitimate, he writes:¶ I propose that we understand the regress itself as the understandable expression of the future-oriented character, or openness, of the democratic constitution: in my view, a constitution that is democratic – not just in its content but also according to its source of legitimation – is a tradition-building project with a clearly marked beginning in time. All the later generations have the task of actualizing the still-untapped normative substance of the system of rights.59¶ A constitutional order and its interpretive history represent a community's attempt to render the terms under which they can give themselves the law that shapes their society's basic structure and secure the law's integrity through assigning basic liberties. Although philosophical reflection can give us some grasp of the presuppositions of a practice of legitimate lawmaking, this framework of presuppositions (“the system of rights”) is “unsaturated.”60 In Hegelian fashion, it must, to be meaningful, be concretized through discourse, and not in an one-off way during a founding moment that fixes the terms of political association once and for all, but continuously, as new persons enter the community and as new circumstances, problems, and perspectives emerge.¶ The stakes involved in sustaining a broad and inclusive constitutional discourse turn out to be significant. Habermas has recently invoked the concept of dignity in this regard, linking it to the process through which society politically constitutes itself as a reciprocal order of free and equal citizens. As a status rather than an inherent property, “dignity that accrues to all persons equally preserves the connotation of a self-respect that depends on social recognition.”61 Rather than being understood as a quality possessed by some persons by virtue of their proximity to something like the divine, the modern universalistic conception of dignity is a social status dependent upon ongoing practices of mutual recognition. Such practices, Habermas posits, are most fully instantiated in the role of citizens as legislators of the order to which they are subject.¶ [Dignity] can be established only within the framework of a constitutional state, something that never emerges of its own accord. Rather, this framework must be created by the citizens themselves using the means of positive law and must be protected and developed under historically changing conditions. As a modern legal concept, human dignity is associated with the status that citizens assume in the self-created political order.62¶ Although the implications of invoking dignity (as opposed to, say, autonomy) as the normative core of democratic constitutionalism are unclear,63 plainly Habermas remains committed to strongly intersubjective conceptions of democratic constitutionalism, to an intersubjectivity that continues to be legally and politically mediated (a dimension largely absent from Honneth's successor theory of intersubectivity).¶ What all of this suggests is a constitutional politics in which citizens are empowered to take part and meaningfully impact the terms of their cultural, economic, and political relations to each other. Such politics would need to be considerably less legalistic and precedent bound, less focused on the democracy-constraining aspects of constitutionalism emphasized in most liberal rule of law models. The sense of incompleteness and revisability that marks this critical theory approach to constitutionalism represents a point where critical theories of democracy may claim to be more radical and revisionary than most liberal and deliberative counterparts. It implies a sharp critique of more familiar models of bourgeois constitutionalism: whether they conceive of constitutional order as having a foundation in moral rights or natural law, or in an originary founding moment, such models a) tend to be backward-looking in their justifications, seeing the legal order as founded on some exogenously determined vision of moral order; b) tend to represent the law as an already-determined container within which legitimate ordinary politics takes place; and c) find the content of law to be ascertainable through the specialized reasoning of legal professionals. On the critical theory conception of constitutionalism, this presumption of completeness and technicity amounts to the reification of a constitutional project, where a dynamic social relation is misperceived as something fixed and objective.64 We can see why this would be immensely problematic for someone like Habermas, for whom constitutional norms are supposed to concern the generalizable interests of free and equal citizens. If it is overall the case for him that generalizable interests are at least partially constituted through discourse and are therefore not given in any pre-political, pre-discursive sense,65 this is especially so in a society like ours with an unreconciled class structure sustained by pseudo-compromises. Therefore, discursive rearticulation of basic norms is necessary for the very emergence of generalizable interests.¶ Despite offering an admirably systematic synthesis of radical democracy and the constitutional rule of law, Habermas’ theory is hobbled by the hesitant way he embraces these ideas. Given his strong commitment to proceduralism, the view that actual discourses among those affected must take place during the production of legitimate law if constitutionalism is to perform its mediational function, as well as his opposition to foundational or backward-looking models of political justification, we might expect Habermas to advocate the continuous circulation in civil society of constitutional discourses that consistently have appreciable impact on the way constitutional projects develop through ongoing legislation such that citizens can see the links between their political constitution (narrowly construed), the effects that democratic discourse has on the shape that it takes, and the role of the political constitution in regulating and transforming the broader institutional backbone of society in accordance with the common good. And indeed, at least in the abstract, this is what the “two track” conception of democracy in Between Facts and Norms, with its model of discourses circulating between the informal public sphere and more formal legislative institutions, seeks to capture.66 As such, Habermas’ version of constitutionalism seems a natural ally of theories of “popular constitutionalism”67 emerging from the American legal academy or of those who, like Jeremy Waldron,68 are skeptical of the merits of legalistic constitutionalism and press for democratic participation in the ongoing rearticulation of constitutional norms. Indeed, I would submit that the preceding pages demonstrate that the Left Hegelian social theoretic backdrop of Habermas’ theory supplies a deeper normative justification for more democratic conceptions of constitutionalism than have heretofore been supplied by their proponents (who are, to be fair, primarily legal theorists seeking to uncover the basic commitments of American constitutionalism, a project more interpretive than normative.69) Given that such theories have very revisionary views on the appropriate method and scope of judicial review and the role of the constitution in public life, it is surprising that Habermas evinces at most a mild critique of the constitutional practices and institutions of actually existing democracies, never really confronting the possibility that institutions of constitutional review administered by legal elites could be paternalistic or extinguish the public impetus for discourse he so prizes.70 In fact, institutional questions concerning where constitutional discourse ought to take place and how the power to make authoritative determinations of constitutional meaning should be shared among civil society, legislative, and judiciary are mostly abstracted away in Habermas’ post-Between Facts and Norms writings, while that work is mostly content with the professional of administration of constitutional issues as it exists in the United States and Germany.¶ This is evident in Habermas’ embrace of figures from liberal constitutional theory. He does not present an independent theory of judicial decision-making, but warmly receives Dworkin's well-known model of “law as integrity.” To a certain extent, this allegiance makes sense, given Dworkin's sensitivity to the hermeneutic dimension of interpretation and the fact that his concept of integrity mirrors discourse theory in holding that legal decisions must be justifiable to those affected in terms of publicly recognizable principles. Habermas does, however, follow Michelman in criticizing the “monological” form of reasoning that Dworkin's exemplary Judge Hercules employs,71 replacing it with the interpretive activities of a specialized legal public sphere, presumably more responsive to the public than Hercules. But this substitution does nothing to alleviate other aspects of Dworkin's theory that make a match between him and Habermas quite awkward: Dworkin's standard of integrity compels judges to regard the law as a complete, coherent whole that rests on a foundation of moral rights.72 Because Dworkin regards deontic rights in a strongly realistic manner and as an unwritten part of the law, there is a finished, retrospective, “already there” quality to his picture of it. Thinking of moral rights as existing independently of their social articulation is what moves Dworkin to conceive of them as, at least in principle, accessible to the right reason of individual moral subjects.73 Legal correctness can be achieved when lawyers and judges combine their specialized knowledge of precedent with their potentially objective insights into deontic rights. Fashioning the law in accordance with the demands of integrity thereby becomes the province of legal elites, rendering public discourse and the construction of generalizable interests in principle unnecessary. This helps explain Dworkin's highly un-participatory conception of democracy and his comfort with placing vast decision-making powers in the hands of the judiciary.7¶ There is more than a little here that should make Habermas uncomfortable. Firstly, on his account, legitimate law is the product of actual discourses, which include the full spate of discourse types (pragmatic, ethical-political, and moral). If the task of judicial decision-making is to reconstruct the types of discourse that went into the production of law, Dworkin's vision of filling in the gaps between legal rules exclusively with considerations of individual moral rights (other considerations are collected under the heading of “policy”75) makes little sense.76 While Habermas distances himself from Dworkin's moral realism, calling it “hard to defend,”77 he appears not to appreciate the extent to which Dworkin links his account of legal correctness to this very possibility of individual insight into the objective moral order. If Habermas wishes to maintain his long held position that constitutional projects involve the ongoing construction of generalizable interests through the democratic process – which in my view is really the heart of his program – he needs an account of legal correctness that puts some distance between this vision and Dworkin's picture of legal elites discovering the content of law through technical interpretation and rational intuition into a fixed moral order.¶ Also puzzling is the degree of influence exercised by civil society in the development of constitutional projects that Habermas appears willing to countenance. While we might expect professional adjudicative institutions to play a sort of yeoman's role vis-à-vis the public, Habermas actually puts forth something akin to Bruce Ackerman's picture of infrequent constitutional revolutions, where the basic meaning of a constitutional project is transformed during swelling periods of national ferment, only to resettle for decades at a time, during which it is administered by legal professionals.78 According to this position, American civil society has not generated new understandings of constitutional order that overcome group divisions since the New Deal, or possibly the Civil Rights era. Now, this may actually be the case, and perhaps Habermas’ apparent acquiescence to this view of once-every-few-generations national conversations is a nod to realism, i.e., a realistic conception of how much broad based, ongoing constitutional discourse it is reasonable to expect the public to conduct. But while a theory with a Left Hegelian pedigree should avoid “the impotence of the ought” and utopian speculation, and therefore ought not develop critical conceptions of legal practice utterly divorced from present ones, such concessions to realism are unnecessary. After all, critical theory conceptions of constitutionalism will aim to be appreciably different from the more authoritarian ones currently in circulation, which more often than not fail to stimulate and sustain public discourse on the basic constitution of society. Instead, their point would be to suggest how a more dynamic, expansive, and mediational conception of constitutionalism could unlock greater democratic freedom and rationally integrated social identities.¶ Given these problems in Habermas’ theory, the innovations that Benhabib makes to his conception of constitutionalism are most welcome. While operating within a discourse theoretic framework, her recent work more unabashedly recalls Hegel's broader conception of the constitution as the basic norms through which a community understands and relates to itself (of which a founding legal document is but a part): a constitution is a way of life through which individuals seek to connect themselves to each other, and in which the very identity and membership of a community is constantly at stake.79 Benhabib's concept of “democratic iterations,” which draws on meaning-as-use theories, emphasizes how meaning is inevitably transformed through repetition:¶ In the process of repeating a term or a concept, we never simply produce a replica of the original usage and its intended meaning: rather, very repetition is a form of variation. Every iteration transforms meaning, adds to it, enriches it in ever-so-subtle ways. In fact, there is really no ‘originary’ source of meaning, or an ‘original’ to which all subsequent forms must conform … . Every iteration involves making sense of an authoritative original in a new and different context … . Iteration is the reappropriation of the ‘origin’; it is at the same time its dissolution as the original and its preservation through its continuous deployment.80¶ Recalling the reciprocal relationship that Hegel hints at between the narrow “political” constitution and the broader constitution of society's backbone of interrelated institutions, Benhabib here seems to envision a circular process whereby groups take up the conceptions of social relations instantiated in the legal order and transform them in their more everyday attempts to live with others in accordance with these norms. Like Cover and Michelman, she stresses that the transformation of legal meaning takes place primarily in informal settings, where different groups try (and sometimes fail) to live together and to understand themselves in their relation to others according to the terms they inherit from the constitutional tradition they find themselves subject to.81 Her main example of such democratic iteration is the challenge Muslim girls in France raised against the head scarf prohibition in public schools (“L’Affaire du Foulard”), which, while undoubtedly antagonistic, she contends has the potential to felicitously transform the meaning of secularity and inclusion in the French state and to create new forms of togetherness and understanding. But although Benhabib illustrates the concept of democratic iterations through an exemplary episode, this iterative process is a constant and pervasive one, which is punctuated by events and has the tendency to have a destabilizing effect on authority.82¶ It is telling, however, that Benhabib's examples of democratic iterations are exclusively centered on what Habermas would call ethical-political discourses.83 While otherwise not guilty of the charge,84 Benhabib, in her constitutional theory, runs afoul of Nancy Fraser's critical diagnosis of the trend in current political philosophy to subordinate class and distributional conflicts to struggles for cultural inclusion and recognition.85 Perhaps this is due to the fact that “hot” constitutional issues are so often ones with cultural dimensions in the foreground, rarely touching visibly on distributional conflicts between groups. This nonetheless is problematic since much court business clearly affects – often subtly and invisibly – the outcomes of these conflicts, frequently with bad results.86 For another reason why centering constitutional discourse on inclusion and cultural issues is problematic, it is useful to remind ourselves of Habermas’ critique of civic republicanism, according to which the main deficit in republican models of democracy is its “ethical overburdening” of the political process.87 To some extent, republicanism's emphasis on ethical discourse is understandable: given the level of cooperativeness and public spirit that republicans view as the font of legitimate law, political discourses need to engage the motivations and identities of citizens. Arguably, issues of ethical self-understanding do this better than more abstract or arid forms of politics. But it is not clear that this is intrinsically so, and it can have distorting effects on politics. In the American media, for example, this amplification of the cultural facets of issues is very common; conflicts over everything from guns to taxes are often reduced to conflicts over who is a good, real American and who is not. It is hard to say that this proves edifying; substantive issues of rights and social justice are elided, politics becomes more fraudulent and conflictual. None of this is to deny a legitimate place for ethical-political discourse. However, we do see something of a two-steps-forward-one-step-back movement in Benhabib's advancement of Habermas’ discourse theory of law: although her concept of democratic iterations takes center stage, she develops the notion solely along an ethical-political track. Going forward, critical theorists developing conceptions of constitutional discourse should work to see it as a way of integrating questions of distributional justice with questions of moral rights and collective identities without subordinating or conflating them.¶ 4. Conclusion¶ Some readers may find the general notion of reinvigorating a politics of constitutionalism quixotic. Certainly, it has not been not my intention to overstate the importance or positive contributions of constitutions in actually existing democracies, where they can serve to entrench political systems experiencing paralysis in the face of long term fiscal and environmental problems, and where public appeals to them more often than not invoke visions of society that are more nostalgic, ethno-nationalistic, authoritarian, and reactionary than what Habermas and Benhabib presumably have in mind. Instead, I take the basic Hegelian point I started this paper with to be this: modern persons ought to be able to comprehend their social order as the work of reason; the spine of institutions through which their relations to differently abled and positioned others are mediated ought to be responsive to their interests as fully-rounded persons; and comprehending this system of mediation ought to be able to reconcile them to the partiality of their roles within the universal state. Though modern life is differentiated, it can be understood, when seen through the lens of the constitutional order, as a result of citizens’ jointly exercised rationality as long as certain conditions are met. These conditions are, however, more stringent than Hegel realized. In light of this point, that so many issues deeply impacting citizens’ social and economic relations to one another are rendered marginal – and even invisible – in terms of the airing they receive in the public sphere, that they are treated as mostly settled or non-questions in the legal system consitutues a strikingly deficient aspect of modern politics. Examples include the intrusion of market logic and technology into everyday life, the commodification of public goods, the legal standing of consumers and residents, the role of shareholders and public interests in corporate governance, and the status of collective bargaining arrangements. Surely a contributing factor here is the absence of a shared sense of possibility that the basic terms of our social union could be responsive to the force that discursive reason can exert. Such a sense is what I am contending jurisgenerative theories ought to aim at recapturing while critiquing more legalistic and authoritarian models of law.¶ This is not to deny the possibility that democratic iterations themselves may be regressive or authoritarian, populist in the pejorative sense. But the denial of their legitimacy or possibility moves us in the direction of authoritarian conceptions of law and political power and the isolation of individuals and social groups wrought by a political order of machine-like administration that Horkheimer and Adorno describe as a main feature of modern political domination. Recapturing some sense of how human activity makes reason actual in the ongoing organization of society need not amount to the claim that reason culminates in some centralized form, as in the Hegelian state, or in some end state, as in Marx. It can, however, move us to envision the possibility of an ongoing practice of communication, lawmaking, and revision that seeks to reconcile and overcome positivity and division, without the triumphalist pretension of ever being able to fully do so.

### USFG Answer

**Disengagement cannot resolve hegemonic conceptions of reality- these conceptions become dominant due to the unwillingness of activists to engage with this notions and counter them**

**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 uwyo//amp]

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 andNegri that **it is important to understand the transition from Fordism topost-Fordism.** But I consider that the dynamics of this transition is bet-ter apprehended within the framework of the approach outlined in thebook 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 withHardt and Negri’s view is that, by putting so much emphasis on theworkers’ struggles, they tend to see this transition as if it was driven byone single logic: the workers’ resistance** to the forces of capitalism in thepost-Fordist era. **They put too much emphasis upon immaterial labour.In their view, capitalism can only be reactive and they refuse to acceptthe creative role played both by capital and by labour**. To put it anotherway, **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 giveninstitution 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 i**llustrated 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 orde**r. **This means that when we talk about ‘the political’, we do not lose sight of the ever present possibilityof heterogeneity and antagonism within society**. **There are many differ-ent 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 abandoningthe view that a single logic** (workers’ struggles) **is at work in the evolu-tion of the work process; as well as acknowledging the pro-active roleplayed 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 The Importance of Engaging the State 235 Capitalism (2005), bring to light the way in which **capitalists manage touse 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 con-trol.** They use the term ‘artistic critique’ to refer to how the strategies of the counter-culture (the search for authenticity, the ideal of self-management and the anti-hierarchical exigency) were used to promote the conditions required by the new mode of capitalist regulation, replac-ing the disciplinary framework characteristic of the Fordist period. From my point of view, what is interesting in this approach is that **it shows 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 exampleof what Gramsci called ‘hegemony through neutralisation’ or ‘**passive revolution’**. This refers to a situation where **demands which challengethe 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 theterm. 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 with-drawing** completely from existing institutions. Rather, **we have no other choice but to engage with hegemonic practices, in order to challengethem. 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 regula-tion. 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 politicalsubject. 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 ands overeignty. In reality, as I’ve already noted, others are often perfectly willing to take control.If **my approach** – **supporting new social movements and counter-hegemonic practices – has** been called ‘post-Marxist’ by many, it isprecisely because I have **challenged the very possibility of such a recon-ciled society. To acknowledge the ever present possibility of antagonismto the existing order implies recognising that heterogeneity cannot beeliminated.** As far as politics is concerned, **this means the need to envis-age 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 cannever be merely oppositional or conceived as desertion, because it aimsto challenge the existing order, so that it may reidentify and feel morecomfortable** with that order.

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

**Shulock 99**

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

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

**Focus on deliberative approaches to public policy makes participation in policy decisions by those without their hands on the levers of power possible**

**Hickman, 12**

[Larry, director of the Center for Dewey Studies and professor of philosophy at Southern Illinois University Carbondale, “Citizen Participation: more or less?” Online, http://www.secularhumanism.org/index.php?section=fi&page=hickman\_28\_6] /Wyo-MB

Progressives such as John Dewey have tended to take a very different view from that of Caplan, Lippmann, and the Roberts Court. In his 1927 book The Public and Its Problems, **Dewey** mounted an energetic response to Lippmann. He **encouraged** **support** **for a free and vigorous press** **whose task would be to make the results of research in the social sciences available to every citizen**. **He denied that the “ordinary citizen” lacked sufficient intelligence or interest to participate in public affairs**. And he called for greater **support** **for** a type of **public education that would increase the critical skills** that every citizen requires **to cut through the web of disinformation that tends to be disseminated by governments**, corporations, **and other forces seeking to impede full discussion of matters affecting the public good.** If ordinary citizens were as distracted as Lippmann claimed, Dewey suggested, they would hardly be amenable to control by the educated elites in any event. **And if experts were cut off from the needs and concerns of the general population, then their databases would dry up**. They and their reports would become increasingly irrelevant. Of course, Dewey was not advocating a pure form of participatory democracy. He recognized that men and women have different talents, needs, and interests and that when they associate themselves in groups larger than a mere handful, there is a tendency toward specialization in the various tasks required to support the continued existence of the group. One of those areas of specialization is the ability to act on behalf of other members of a group—or what Dewey termed a public—in ways that its members find acceptable. In sum, in order **for a public to exist, it must have members who are able to take the lead in articulating its goals and interests and in representing those goals and interests to other publics**. Dewey was in fact calling for a form of **deliberative democracy that would achieve a creative balance between participation and representation**. He realized that **deliberative democracies cannot function in the absence of experts in various fields and representatives who take decisions on behalf of a voting public**. On one side, while **participation within civic affairs** could hardly be required, it **should** nevertheless **be open to anyone willing to develop the skills necessary for involvement in the processes of public debate and decision making.** On the other side, efficient government requires both representatives who are sensitive to public problems and experts who can advise those representatives on technical matters.

### SSD

**Switch side debate is good-direct engagement, not abstract relation, with identities we do not identify with is critical to us to overcome the existential resentment we feel towards those with whom we disagree. Lack of switch-side facilitates a refusal to accept that our position is within question**

**Glover 10**

[Robert, Professor of Political Science at University of Connecticut, Philosophy and Social Criticism, “Games without Frontiers?: Democratic Engagement, Agonistic Pluralism, and the Question of Exclusion”, Vol. 36, p. asp uwyo//amp]

In this vein, **Connolly sees the goal of political engagement as securing a positive ‘ethos of engagement’ in relation to popular movements which alter existing assumption**s, that is, a **positive attitude towards attempts at pluralization. Connolly suggests we do so through** thecultivation of two essential virtues**: agonistic respect and critical responsiveness. 88 Agonistic respect is defined as a situation whereby each political actor arrives at an appreciation for the fact that their own self-definition is bound with that of others, as well as recognition of the degree towhich each of these projections is profoundly contestable**. 89 While Connolly notes that **agonistic respect is a ‘kissing cousin’ of liberal tolerance, he distinguishes it by saying that the latter typically carries ‘the onus of being at the mercy of a putative majority that often construes its own position to be beyond question**.’ 90 Thus, **agonistic respect is a reciprocal democratic virtue meant to operate across relations of difference, and Connolly deploys it as a regulative ideal for the creation agonistic democratic spaces**. 91 In a somewhat related way, the virtue of ‘**critical responsiveness’** also attempts to move beyond liberal tolerance. 92 Critical responsiveness **entails ‘ careful listening and presumptive generosity to constituencies struggling to move from an obscure or degraded subsistence below the field of recognition**, justice, obligation, rights, or legitimacy to a place on one or more of those registers.’ 93 C**ritical responsiveness is not pity, charity, or paternalism but implies anenhanced degree of concern for others, driven by the cultivation of reciprocal empathic concern 21 for that which you are not. 94 This attitude cannot be developed in an abstract relation to thesenew and existing forms of** radical cultural, political, religious, and philosophical **difference. Critical responsiveness above all requires that one ‘get[s] a whiff of experiences heretofore aliento [us]’, recognizing that while this may be unsettling or cause discomfort, direct engagement isthe means by which you, ‘work tactically on yourself and others to overcome existential resentment of this persistent condition of human being.’**

## Case

**Love and humanitariansm are just attempts to exercise domination over others**

**Nietzsche, 1882** (Friedrich, philosopher, “The Gay Science” Online, MB)

*The things people call love*.— **Avarice and love**: what different feelings these two terms evoke!—nevertheless it could be **the same instinct that has two names**, once deprecated by those who have, in whom the instinct has calmed down to some extent, and who are afraid for their "possessions"; the other time seen from the point of view of those who are not satisfied but still thirsty and who therefore glorify the instinct as "good." **Our love of our neighbor—is it not a desire for new possessions**? And likewise **our love of knowledge, truth, and altogether any desire for what is new**? Gradually **we become tired** of the old, of **what we safely possess**, **and we stretch out our hands again**; even the most beautiful scenery is no longer assured of our love after we have lived in it for three months, and some distant coast attracts our avarice: possessions are generally diminished by possession. **Our pleasure in ourselves tries to maintain itself by again and again changing something new into ourselves,—that is what possession means**. To become tired of some possession means: tiring of ourselves. (One can also suffer of an excess—the lust to throw away or to distribute can also assume the honorary name of "love.") **When we see somebody suffer, we like to exploit this opportunity to take possession of him; those who become his benefactors and pity him, for example, do this and call the lust for a new possession that he awakens in them "love"; and the pleasure they feel is comparable to that aroused by the prospect of a new conquest.** Sexual love betrays itself most clearly as a desire for possession: the lover wants unconditional and sole possession of the person for whom he longs, he wants equally unconditional power over the soul and over the body of the beloved; he alone wants to be loved and desires to live and rule in the other soul as supreme and supremely desirable. If one considers that this means nothing less than *excluding* the whole world from a precious good, from happiness and enjoyment; if one considers that the lover aims at the impoverishment and deprivation of all competitors and would like to become the dragon guarding his golden hoard as the most inconsiderate and selfish of all "conquerors" and exploiters; if one considers, finally, that to the lover himself the whole rest of the world appears indifferent, pale, and worthless, and he is prepared to make any sacrifice, to disturb any order, to subordinate all other interests—then one comes to feel genuine amazement that this wild avarice and injustice of sexual love has been glorified and deified so much in all ages—indeed, that this love has furnished the concept of love as the opposite of egoism while it actually may be the most ingenuous expression of egoism. At this point linguistic usage has evidently been formed by those who did not possess but desired,—probably, there have always been too many of these. Those to whom much possession and satiety were granted in this area have occasionally made some casual remark about "the raging demon," as that most gracious and beloved of all Athenians, Sophocles, did: but Eros has always laughed at such blasphemers,—they were invariably his greatest favorites. Here and there on earth we may encounter a kind of continuation of love in which this possessive craving of two people for each other gives way to a new desire and lust for possession, a *shared* higher thirst for an ideal above them: but who knows such love? Who has experienced it? Its right name is *friendship*

**Sympathy is much worse than actual suffering**

**Nietzsche, 1878** (Friedrich, philosopher, “Human, All Too Human.” The Nietzsche Channel, online, MB)

*Sympathy more painful than suffering*.— There are cases where **sympathy for suffering is more painful than actual suffering. When one of our friends is guilty of something ignominious**, for example, **we feel it more painfully than when we ourselves do it.** For we believe in the purity of his character more than he does. Thus **our love for him** (probably because of this very belief) **is more intense than his own love for himself.** Even if his egoism suffers more than our egoism, in that he has to feel the bad consequences of his fault more intensely, our selflessness (this word must never be taken literally, but only as a euphemism) is touched more intensely by his guilt than is his selflessness. *Hypochondria*.— **There are people who become hypochondriacs out of compassion and concern for another**; the kind of **pity** which results **is nothing less than a disease**. Similarly, there is **a** Christian **hypochrondria** **which befalls** those lonely, religious-minded **people who continually visualize** to **themselves** the **suffering** and death of Christ.

#### Prioritizing decolonization is a nationalist move that sacrifices the lives of native women and gender-non normative bodies.

Smith 10 (Andrea “Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism” GLQ: A Journal of Lesbian and Gay Studies, Volume 16, Number 1-2, 2010, pp. 42-68 (Article) //)

Thus normative futurity depends on an “origin story.” The future is legitimated as a continuation of the past. Here I am reminded of how I have often heard Native activists say, “Let us not work on domestic or other forms of gender violence now, we must work on survival issues ﬁrst.”25 Of course, since Native women are the women most likely to be killed by acts of gender violence in the United States, they are clearly not surviving. The many works on Native women and feminism that say that we are “American Indian women in that order,” that position gender justice as something to be addressed after decolonization, all speak to how this politics of futurity sacriﬁces the lives of women and those who are not gender nor- mative for the indeﬁnitely postponed postcolonial future. As Denetdale notes, the Native nationhood that becomes articulated under this strategy of futurity is one that supports heteropatriarchy, U.S. imperialism, antiblack racism, and capital- ism. As Edelman states: “Political programs are programmed to reify difference and thus to secure in the form of the future, the order of the same.”26 Edelman calls us to queer “social organization as such” to show how our efforts to secure a better future for our children lead us to excuse injustice in the present.27 At the same time, however, this subjectless critique has its limits with regard to decolonization. For instance, Edelman’s analysis lapses into a vulgar construc- tionism by creating a fantasy that there can actually be a politics without a political program that does not always reinstantiate what it deconstructs, that does not always also in some way reafﬁrm the order of the same. Edelman’s “anti-oppositional” politics in the context of multinational capitalism and empire ensures the continu- ation of that status quo by disabling collective struggle designed to dismantle these systems. That is, it seems difﬁcult to dismantle multinational capitalism, settler colonialism, white supremacy, and heteropatriarchy without some kind of politi- cal program, however provisional it may be. Here, Native studies can temper this subjectless critique by engaging queer of color critique in particular. José Esteban Muñoz notes, for example, that an anti-oppositional politic ultimately opts out of relationality and politics. “Relationality is not pretty, but the option of simply opting out of it . . . is imaginable only if one can frame queerness as a singular abstraction that can be subtracted and isolated from a larger social matrix.”28 Furthermore, an anti-oppositional politic can quickly lapse into a leftist cynicism, in which all politics are dismissed as “reproductive” with no disruptive potential. This cynicism then becomes an apology for maintaining the status quo. As Muñoz argues: “The here and now is simply not enough. Queerness should and could be about a desire for another way of being in both the world and time, a desire that resists mandates to accept that which is not enough.”29 A politics of “opting out” clearly privileges those who are relatively more comfortable under the current situation. For indig- enous peoples, however, who face genocide, as well as all peoples subjected to conditions of starvation, violence, and war, opting out is simply not an option. The question then arises, who will be left when we opt out of a struggle against white supremacy, settler colonialism, and capitalism? Those most imme- diately sacriﬁced in this “anti-oppositional” politic are indigenous peoples, poor peoples, and all those whose lives are under immediate attack. Thus, while Edel- man contends that the Child can be analytically separated from actual children, Muñoz demonstrates that Edelman’s Child is nonetheless a disavowed white Child. “The future is the stuff of some kids. Racialized kids, queer kids, are not the sovereign princes of futurity. [Edelman’s] framing nonetheless accepts and repro- duces this monolithic future of the child that is indeed always already white.”30 An indigenous critique must question the value of “no future” in the con- text of genocide, where Native peoples have already been determined by settler colonialism to have no future. If the goal of queerness is to challenge the repro- duction of the social order, then the Native child may already be queered. For instance, Colonel John Chivington, the leader of the famous massacre at Sand Creek, charged his followers to not only kill Native adults but to mutilate their reproductive organs and to kill their children because “nits make lice.”31 In this context, the Native Child is not the guarantor of the reproductive future of white supremacy; it is the nit that undoes it. In addition, while both “tradition” and “the future” must be critically engaged, it does not follow that they can be dismissed. As with identity, the notion of a tradition-free subject simply reinstantiates the notion of a liberal subject who is free from past encumbrances. As Elizabeth Povinelli’s work suggests, the liberal subject articulates itself as an autological subject that is completely self- determining over and against the “genealogical” subject (i.e., the indigenous sub- ject) trapped within tradition, determined by the past and the future.32 Essentially then, this call for “no future” relies on a primitivizing discourse that positions the [white] queer subject in relation to a premodern subject who is locked in history. The “Native” serves as the origin story that generates the autonomous present for the white queer subject.

# 1NR

# 1NR v Texas AK

### Alt Overview

#### This debate should be prioritized through the lens of sexual difference. Only our alternative is able to break down the violent forms of colonialism that were created through Phallogocentrism and allow the feminine to transcend Western philosophy without erasing other factors that shape their subjectivity-rather than the aff that rejects the difference through the dissolution of sexual difference.

#### Colonialism was birthed out of the mind of the man, while life was birthed out of the whom of the women. The only way to affirm live of all people and of the natives is through femininity.

**Women’s perspective are necessary to confront issues of indigenous oppression.**

Winona **LaDuke** “An Indigenous Perspective on Feminism, Militarism, and the Environment. Peace Now. Spring/Summer **1994.**

Indigenous women understand that our struggle for autonomy is related to the total need for structural change in this society. We realize that indigenous people in industrial society have always been and will always be in a relationship of war, because industrial society has declared war on indigenous peoples, on land based peoples. To look within a bigger context, when I say indigenous peoples, I'm not only talking about Indians. All people come from land-based cultures. Some have been colonized longer than I have, which means they have got more work to do. According to an article by Jason Clay in Cultural Survival, there are 5,000 indigenous nations in the world today, and there are one hundred and seventy-one states. Indigenous nations have been around for hundreds of thousands of years. They share common territory, common language, common history, common culture, and a common government or political organization. That is the definition of nation under international law. Nations exist in the Americas, in Malaysia, and elsewhere in the world. The Kayapo people in Brazil are a nation; the Penan of Malaysia are a nation; the Palestinians and Kurdish people are nations. Throughout the world, there are indigenous nations. We have come to accept more commonly that there are only 171 nations and these are states. That is because we are told to accept them by these same powers. These 171 states have, for the most part, been around since World War 11. We need to understand this context. Most indigenous women understand that our struggle as women is integrally related to the struggle of our nations for control of our land, resources, and destinies**. It is difficult for indigenous women to embrace or even relate to the progressive parts of the women's movement**. It is not about civil rights for us. It is not about equal access to something. It is about "Get off my neck." From our perspective, that is what it is all about. Yet industrial society and the military machine continue to devastate our communities. Throughout the Americas, indigenous women are speaking out against militarism. Our people, specifically our men, are being militarized by the American, Guatemalan, and other states. There were 82,000 Indians serving inVietnam from August 1964 to May 1975. Indians had the highest rate of service for all ethnic groups. It was the same in the Persian Gulf War. I read an article in theLakota Times: five hundred Lakota men were in service in the Persian Gulf . That is a horrendous statistic considering that we are only two percent of the population. Militarism changes how men relate to women, the earth, and their communities. The process of militarizing our men causes a disruption of our order. I understand very well that militarization has strongly influenced how men relate to women in our society. It is the cause of many problems. As a result, we are talking about hard challenges. We are talking about the fact that **the system must totally change if indigenous peoples are to survive**. We are talking about the fact that this is a system of conquest. That is the essence of capitalism. That is the essence of colonialism. And conquest means destruction of peoples, which is integrally related to sexism, to racism, to all the other "isms." It is also intimately related to death, because there is no way that a society based on conquest can survive on this earth. We've basically run out of room for conquest. There are no more frontiers. The West is an American state of mind. Nobody's going anywhere. There's no place else to go. We have to look at how we can make a systemic change in this society so there's a meaningful change—not only change in the social and political relations between people, **between men and women**, but also between this society and the consumption of resources. It is within this context that I believe that indigenous women embrace other social movements, embrace them to the extent that they are interested in systemic change. The women's movement is in a good position to take on structural change. **Because there are so many women in this country, the women's movement has the numbers and the potential to engage in real change.** I believe that women are able to have more courage in our work and in our struggle than men exhibit. I really think that's true. It's a very difficult struggle. But I myself really don't have anything else to do with the rest of my life. The fact that we are women and we are intimately related to the forces of renewal and life means that we are much closer to an optimism in our understanding of things than are many men in this society. The war has brought home the concept of Armageddon. Indigenous and land-based societies don't look at this time as a death. They look at it as a time of Earth Renewal, which is a much different understanding and perception of things. I think that women, because we are women, are more in touch with that way of looking at things, which is what gives us the ability to be courageous and be in there for the long struggle.

#### Sexual violence is a product of colonialism- native women are subject to this violence more than any other group in the colonial U.S. we must affirm sexual difference in order to solve this form of oppression.

**Smith ‘5** (Andrea. “Native American Feminism, Sovereignty, and Social Change,” *Feminist Studies*, 31.1, Spring 2005.)

That is, **one of the harms suffered by Native peoples through state policy was sexual violence** perpetrated by boarding school officials. **The continuing effect** of this human rights violation **has been the internalization of sexual and other forms of gender violence within Native American communities**. Thus, the question is, how can we form a demand around reparations for these types of continuing effects of human rights violations that are evidenced by violence within communities, but are nonetheless colonial legacies. In addition, **this project attempts to organize against interpersonal gender violence and state violence simultaneously by framing gender violence as a continuing effect of human rights violations perpetrated by state policy.** **Consequently, this project challenges the mainstream anti-domestic/sexual violence movement to conceptualize state-sponsored sexual violence as central to its work.** As I have argued elsewhere**, the mainstream antiviolence movement has relied on the apparatus of state violence** (in the form of the criminal justice system) **to address domestic and sexual violence without considering how the state itself is a primary perpetrator of violence.** The issue of boarding schools forces us to see the connections between state violence and interpersonal violence. It is through boarding schools that gender violence in our communities was largely introduced. **Before colonization, Native societies were, for the most part, not male dominated.** Women served as spiritual, political, and military leaders. **Many societies were matrilineal and matrilocal. Violence against women and children was infrequent or unheard of** in many tribes.' Native peoples did not use corporal punishment against their children. Although there existed a division of labor between women and men, women's and men's labor was accorded similar status.' **In boarding schools, by contrast, sexual/physical/emotional violence proliferated.** Particularly brutalizing to Native children was the manner in which school officials involved children in punishing other children. For instance, in some schools, children were forced to hit other children with the threat that if they did not hit hard enough, they themselves would be severely beaten. Sometimes perpetrators of the violence were held accountable, but generally speaking, even when teachers were charged with abuse, boarding schools refused to investigate. In the case of just one teacher, John Boone at the Hopi school, FBI investigations in 1987 found that he had sexually abused more than 142 boys, but that the principal of that school had not investigated any allegations of abuse. Despite the epidemic of sexual abuse in boarding schools, the Bureau of Indian Affairs did not issue a policy on reporting sexual abuse until 1987 and did not issue a policy to strengthen the background checks of potential teachers until 1989. **Although not all Native peoples see their boarding school experiences as negative, it is generally the case that much if not most of the current dysfunctionality in Native communities can be traced to the boarding school era. The effects of boarding school abuses linger today because these abuses have not been acknowledged by the larger society. As a result, silence continues within Native communities, preventing Native peoples from seeking support and healing as a result of the intergenerational trauma. Because boarding school policies are not acknowledged as human rights violations, Native peoples individualize the trauma they have suffered, thus contributing to increased shame and self-blame.** If both boarding school policies and the continuing effects from these policies were recognized as human rights violations, then it might take away the shame from talking about these issues and thus provide an opportunity for communities to begin healing. Unfortunately, **we continue to perpetuate this colonial violence through domestic/sexual violence, child abuse, and homophobia. No amount of reparations will be successful if we do not address the oppressive behaviors we have internalized. Women of color have for too long been presented with the choices of either prioritizing racial justice or gender justice. This dualistic analysis fails to recognize that it is precisely through sexism and gender violence that colonialism and white supremacy have been successful.** A question to ask ourselves then is, what would true reparations really look like for women of color who suffer state violence and interpersonal gender violence simultaneously? The Boarding School Healing Project provides an opportunity to organize around the connections between interpersonal gender violence and state violence that could serve as a model for the broader antiviolence movement.

#### Must address western notions of masculinity otherwise dominance will continue

Sneider 2012 (Leah, "Gender, Literacy, and Sovereignty in Winnemucca‚Äôs <i>Life among the Piutes</i>." <u>The American Indian Quarterly</u> 36.3 (2012): 257-287. <i>Project MUSE</i>. Web. 6 Oct. 2012. &lt;http://muse.jhu.edu/&gt;.)

In the first chapter of her tribalography, Sarah expresses her knowledge about conflicting social constructions and their literary representations. As the narrative continues, she consistently mediates and translates cultural understanding and representations of masculinity and the discursive morality upon which both Native and European American masculinities rely. She realizes and attempts to explain how such mediation often reproduces rather than reduces conflict. However, she also finds that she can use her cultural literacy to her advantage and perform the necessary gender roles needed to produce the desired effect. Consequently, she indirectly identifies the fundamental paradigm or ideology that informs gender and race as a hierarchy of dominance in Western cultures opposed to inclusivity, complementarity, and reciprocity in Paiute culture. In practice, she exemplifies that the Paiute ideology incorporates binary gender roles as needed for the sake of the community, showing that binaries aren’t necessarily harmful. However, Winnemucca explains how European American masculinity negatively affects Paiute men and conceptions of masculinity upon first contact. Thus Winnemucca indicates that conflated performances of Western gender and morality produce cross-cultural conflict that reinforces rather than renounces Western dominance.

### Impact

#### Flight from the body constructs everything as bare life- the dematerialization of the body supports a politics of mass extermination that reifes Foucault’s underside of power- leads to mass genocide of marginalized bodies

#### AND the Phallogocentrism of the aff inflects irreparable loss on all female subjectivity

Braidotti 2011

[Braidotti, Rosi. Nomadic Subjects : Embodiment and Sexual Difference in Contemporary Feminist Theory (2nd Edition). New York, NY, USA: Columbia University Press, 2011. p 5.

<http://site.ebrary.com/lib/uofw/Doc?id=10464453&ppg=16> Copyright © 2011. Columbia University Press. All rights reserved. Uwyo//amp]

Irigaray is one of the few thinkers who places full emphasis on radical heterosexuality and the need to reconstruct a heterosexual social-symbolic contract that does not rest on feminophobia, hence not on a patriarchal social unconscious. A fully trained psychoanalyst, Irigaray denounces the delusional nature of identities postulated on the phallogocentric signifier and digs deeper than the sociological expressions of everyday sexism and culturally enforced discrimination. Her critique touches upon the in-depth roots of misogyny in a subject whose foundations rest on the rejection of the feminine from the material maternal body that constitutes our site of origin and inflicts a wound on each and every subject. At the beginning of the self, there is a separation from the totality one enjoyed as part of the mater or matrix. This causes an irreparable loss and hence an inexpressible grief. This structure of “unrepresentability” is a crucial part of psychoanalytic theories of subject formation. It rests on two key ideas: first, that the original loss of (the illusion of) totality, which translates into a wound, becomes a constitutive element of our subjectivity. One incorporates the loss, so to speak, and folds over it by deploying all possible cognitive and emotional forms of compensation. The pain of it never goes away— it just gets formatted into mourning and melancholia (Freud) or gratitude and reciprocity (Melanie Klein). Irigaray argues that the sense of originary loss has to be replaced by self-love and love for the Woman one could become.

### Permutation

#### Pluralism D/A-Universal sexuate identity must come first, the perm creates a politics of pluralism which antagonize differences among oppressed groups and allows for the dismissal of the unique oppression women experience on the basis of gender-Post-colonial Africa proves

Mori 02

[Kaori Mori, 2002, Luce Irigaray’s Choreography with Sex and Race, Doctor of Philosophy Dissertation, uwyo//amp]

If it is possible to understand Irigaray’s argument of the necessity of having women as a universal category by incorporating Laclau’s perspective, we would know that the feminine universal can embrace particular aspects such as race, class, religion, and so on. Laclau’s discussion of the inseparable relationship between the universal and the particular thus helps to reshape Trigaray’s claim of the feminine universal. However, applying Laclau’s notions of the universal and the particular to Irigaray’s works generate problems. Firstly, Lacalau’s discussion of the universal as the empty signifier might reduce the material reality of women to a textual level. For Irigaray, material reality and symbolic representation of women are inseparable. Secondly, Laclau believes that sexual difference is one of the particulars. It is true that any form of political struggle should be equally valorized, yet if the problems concerning women are counted as one of various political issues, even if they are not ignored, there is a danger that women’s problems become less urgent and less visible in politics. For instance, in the process of de-colonization, many women in the ex-colonial nations have engaged in liberation movements not only for their nations but also in the hope of transforming women’s oppressive situations. Yet, in an essay, “Sher and Villains.” Amina Mama reports an on-going exploitation of African women both before and after de-colonization. She says, many of the women who joined men in the bush to fight the white settler regime found themselves rejected in favor of more traditionally feminine women once the fighting was over. It seems clear that African women entered the postcolonial period at an immense disadvantage and under global conditions which, while increasingly unfavorable to Africa as a whole, nonetheless favored men, who arrogate to themselves the authority of articulating the nation’s culture and poLitics. This background offers some insight into why postcolonial societies have continued to be so oppressive to women (56). Thus, behind the multiplication of political struggles, there is a possibility that within each interest group, while men’s demands are more articulated, women’s demands become less visible. The posimodern dissolution of the universal identity invites the emergence of politics of multiculturalism or pluralism, in which the hitherto oppressed people have more rights to articulate their demands or needs. However, the pitfalls of multiculturalism are its tendency to fall into fence-blocking tendencies” on the side of various political groups fight against one dominant group. their fights are sanctioned within the hegemonic group’s “repressive tolerance.” Pluralism or multiculturalism paradoxically precipitates the domination of the hegemonic group. On the other hand, since each particular group focuses on its own interests and often rivalizes the other groups, they tend to be isolated from each other. The lack of affiliation or mutual understanding among underprivileged people again strengthens the power of the dominant group. If the universal category of woman is dismissed, women in multiculturalism or pluralism are divided and antagonized each other. It is true that we need to encourage more people to join political struggles to change unjust social realities. Yet, as Ingaray claims, unless women maintain their own universal or equally, their own particularity vis-à-vis the masculine universal, whatever political activities they engage in, their demands or rights might be ignored or erased.

### Link

#### The affirmative's failure to accommodate alternative strategies for liberation acts as patriarchs policing the revolutionary family. This form of internalized colonization will lead to liberation for the native community at the expense of those most marginalized within it.

Smith 10

Andrea. 2010. Dismantling Hierarchy, Queering Society. Tikkun 25(4): 60¶ author of Native Americans and the Christian Right: The Gendered Politics of Unlikely Alliances (Duke, 2008). prof @ UC Riverside.

Another reality that a queer activist approach reveals is that even social justice groups often rely on a politics of normalization. Queer politics has expanded our understanding of identity politics by not presuming fixed categories of people, but rather looking at how these identity categories can normalize who is acceptable and who is unacceptable, even within social justice movements. It has also demonstrated that many peoples can become "queered" in our society—that is, regardless of sexual/gender identity, they can become marked as inherently perverse and hence unworthy of social concern (such as sex workers, prisoners, "terrorists," etc.). We often organize around those peoples who seem most "normal" or acceptable to the mainstream. Or we engage in an identity politics that is based on a vision of racial, cultural, or political purity that sidelines all those who deviate from the revolutionary "norm."¶ Because we have not challenged our society's sexist hierarchy (which, as I have explained, fundamentally privileges maleness and presumes heterosexuality), we have deeply internalized the notion that social hierarchy is natural and inevitable, thus undermining our ability to create movements for social change that do not replicate the structures of domination that we seek to eradicate. Whether it is the neocolonial middle managers of the nonprofit industrial complex or the revolutionary vanguard elite, the assumption is that patriarchs of any gender are required to manage and police the revolutionary family. Any liberation struggle that does not challenge heteronormativity cannot substantially challenge colonialism or white supremacy. Rather, as political scientist Cathy Cohen contends, such struggles will maintain colonialism based on a politics of secondary marginalization in which the most elite members of these groups will further their aspirations on the backs of those most marginalized within the community.¶ Fortunately, many indigenous and racial justice movements are beginning to see that addressing heteropatriarchy is essential to dismantling settler colonialism and white supremacy. The Native Youth Sexual Health Network, led by Jessica Yee, integrates queer analysis, indigenous feminism, and decolonization into its organizing praxis. Incite!, a national activist group led by radical feminists of color, similarly addresses the linkages between gender violence, heteropatriarchy, and state violence. And queer-of-color organizations such as the Audre Lorde Project have rejected centrist political approaches that demand accommodation from the state; rather, they seek to "queer" the state itself. ¶ This queer interrogation of the "normal" is also present in more conservative communities. I see one such thread in evangelical circles—the emergent movement (or perhaps more broadly, the new evangelical movement). By describing the emergent movement as a queering of evangelicalism, I don't necessarily mean that it offers an open critique of homophobia (although some emergent church leaders such as Brian McClaren have spoken out against homophobia). Rather, I see this movement as challenging of normalizing logics within evangelicalism. This movement has sought to challenge the meaning of evangelicalism as being based on doctrinal correctness, and instead to imagine it a more open-ended ongoing theological conversation. Certainly the Obama presidential campaign has inspired many evangelicals—even though they may hold conservative positions on homosexuality or abortion—to call for a politics that is more open-ended and engaged with larger social justice struggles. Perhaps because of this trend, evangelical leader John Stackhouse recently complained that the biggest change in evangelicalism is "the collapse of the Christian consensus against homosexual marriage." Unfortunately, many leftist organizers tend to dismiss or ignore these openings within evangelicalism, but at their own peril. Social transformation happens only through sustained dialogue with people across social, cultural, and political divides. ¶ As I have shown here, I believe queer politics offers both a politics and a method for furthering social transformation. It is a politics that addresses how heteropatriarchy serves to naturalize all other social hierarchies, such as white supremacy and settler colonialism. It is also a method that organizes around a critique of the "normal" (in society as a whole or in social movements) and engages in open-ended, flexible, and ever-changing strategies for liberation.

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

   Jeff Parcher, former debate coach at Georgetown, Feb 2001 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.

   And Should denotes an expectation of enacting a plan  
   American Heritage Dictionary 2000 (Dictionary.com)  
   should. The will to do something or have something take place: I shall go out if I feel like it [↑](#footnote-ref-1)
2. Federal government is the central government in Washington DC  
   Encarta Online 2005,   
     
   United States (Government), the combination of federal, state, and local laws, bodies, and agencies that is responsible for carrying out the operations of the United States. The federal government of the United

   States is centered in Washington, D.C. [↑](#footnote-ref-2)