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## 1

#### a. Interpretation and violation---the affirmative should defend the desirability of topical government action

#### Most predictable—the agent and verb indicate a debate about hypothetical government action

Jon M Ericson 3, Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4

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

#### “Resolved” is legislative

Jeff Parcher 1, 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.

#### “Should” requires defending federal action

Judge Henry Nieto 9, Colorado Court of Appeals, 8-20-2009 People v. Munoz, 240 P.3d 311 (Colo. Ct. App. 2009)

"Should" is "used . . . to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (2002). Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### Debate over a controversial point of action creates argumentative stasis—the resolution is key to avoid a devolution of debate into competing truth claims

Steinberg and Freely 08

(David L., lecturer of communication studies – University of Miami, and Austin J.,Boston based attorney who focuses on criminal, personal injury and civil rights law, “Argumentation and Debate: Critical Thinking for Reasoned Decision Making” p. 45//wyoccd)

Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a tact or value or policy, there is no need for debate: the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four," because there is simply no controversy about this statement. (Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate. In addition, debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly. Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007.¶ Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as "What can be done to improve public education?"—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference.¶ To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument. For example, the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose.¶ Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does "effectiveness" mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" The basis for argument could be phrased in a debate proposition such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

#### Debate needs middle of the road constraints; unbridled affirmation destroys dialogue that are key to political discussion

Hanghoj 08

(Thorkild Hanghøj, Phd, DREAM (Danish Research Centre on Education and Advanced Media Materials at the Institute of Literature, Media and Cultural Studies at the University of Southern Denmark. 2008 http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf//wyoccd)

Debate games are often based on pre-designed scenarios that include descriptions of issues to be debated, educational goals, game goals, roles, rules, time frames etc. In this way, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space. However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, educational gaming is a form of teaching. As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation (Gee, 2003; Barth, 2002; cf. chapter 2). In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to a central assumption in Bakhtin’s dialogical philosophy. According to Bakhtin, all forms of communication and culture are subject to centripetal and centrifugal forces (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities. In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game (centripetal orientation) and a focusing too broadly on the contingent possibilities and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the monological discourse of the Socrates/Plato dialogues in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary (Bakhtin, 1984a). Thus, discourse becomes monologised when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher (Bakhtin, 1984a: 81). In contrast to this, dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths” (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

#### Dialogue is the biggest impact—the process of discussion opens up agency and recognizes difference

Morson 04

(Northwestern Professor, work ranges over a variety of areas: literary theory (especially narrative); the history of ideas, both Russian and European; a variety of literary genres incuding relation of literature to philosophy. 2004 http://www.flt.uae.ac.ma/elhirech/baktine/0521831059.pdf#page=331//wyoccd)

A belief in truly dialogic ideological becoming would lead to schools that were quite different. In such schools, the mind would be populated with a complexity of voices and perspectives it had not known, and the student would learn to think with those voices, to test ideas and experiences against them, and to shape convictions that are innerly persuasive in response. This very process would be central. Students would sense that whatever word they believed to be innerly persuasive was only tentatively so: the process of dialogue continues.We must keep the conversation going, and formal education only initiates the process. The innerly persuasive discourse would not be final, but would be, like experience itself, ever incomplete and growing. As Bakhtin observes of the innerly persuasive word: Its creativity and productiveness consist precisely in the fact that such a word awakens new and independent words, that it organizes masses of our words from within, and does not remain in an isolated and static condition. It is not so much interpreted by us as it is further, that is, freely, developed, applied to new material, new conditions; it enters into interanimating relationships with new contexts. . . . The semantic structure of an innerly persuasive discourse is not finite, it is open; in each of the new contexts that dialogize it, this discourse is able to reveal ever newer ways to mean. (DI, 345–6) We not only learn, we also learn to learn, and we learn to learn best when we engage in a dialogue with others and ourselves. We appropriate the world of difference, and ourselves develop new potentials. Those potentials allow us to appropriate yet more voices. Becoming becomes endless becoming. We talk, we listen, and we achieve an open-ended wisdom. Difference becomes an opportunity (see Freedman and Ball, this volume). Our world manifests the spirit that Bakhtin attributed to Dostoevsky: “nothing conclusive has yet taken place in the world, the ultimate word of the world and about the world has not yet been spoken, the world is open and free, everything is in the future and will always be in the future.”3 Such a world becomes our world within, its dialogue lives within us, and we develop the potentials of our ever-learning selves. Letmedraw some inconclusive conclusions, which may provoke dialogue. Section I of this volume, “Ideologies in Dialogue: Theoretical Considerations” and Bakhtin’s thought in general suggest that we learn best when we are actually learning to learn. We engage in dialogue with ourselves and others, and the most important thing is the value of the open-ended process itself.

#### b. Vote neg

#### 1. Preparation and clash—changing the topic post facto manipulates balance of prep, which structurally favors the aff because they speak last and permute alternatives—strategic fairness is key to engaging a well-prepared opponent

#### 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.

## **2**

#### The aff fuels a culture of criticism that changes nothing—it produces a reactionary cynicism that stifles any form of social change

Bryant, 2012

[Levi, professor of philosophy at Collin College and author of Difference and Givenness: Deleuze’s Transcendental Empiricism and the Ontology of Immanence, co-editor of the forthcoming The Speculative Turn with Nick Srnicek and Graham Harman, and author of a number of articles on Deleuze, Badiou, Zizek, Lacan, and political theory, On cynicism, http://larvalsubjects.wordpress.com/2012/12/20/on-cynicism/] /Wyo-MB

I’ve expressed this thought elsewhere and before, but what we need more than ever right now is a skepticism of skepticism, a cynicism towards cynicism. It’s not that we should become wide-eyed naifs, believing all that we encounter. No, it’s that critique and cynicism, as Sloterdijk noted, have become both the reigning form of ideology and dominant mode of cultural production within the academic humanities. Today what we get is critique upon critique and critiques of critiques, where yet another critique arises to critique these critiques as I’m doing now. Indeed, with Laruelle we get the most radical mode of critique yet, a critique that shows that all thought is ultimately based on a circularity and unfounded decision, that ultimately leads us to a “real-in-the-last-instance” of which we can never speak because to do so would be to introduce yet another circular determination based on an ungrounded decision. We get a real of which we’re permitted to say nothing. In all instances we win, showing always how each statement, each claim, each thought, is pervaded by an illegitimate decision, yet we are permitted to say nothing beyond pointing this out. A true Pyrric victory. We’re drunk with critique, cynicism, and skepticism. And in this way, all critique has come to be neutralized. We now know, a priori, that everything we speak of– including our own critiques! –will contain illegitimate assumptions, illicit interests on behalf of the powerful and dominant classes, and unfounded decisions. It is all neutralized in advance. In the culture industry of the academy– and, in particular, the academy that calls itself radical –we will always be able to show that some scandalous desire, ideology, or interest is at work. As a consequence, we become ~~paralyzed~~. We can say well enough what is wrong with any positive knowledge claim and how any ethical or political proposal conceals hidden interests and despicable forms of oppression and inequality, we can show, like the theologians, how everything is stained by sin, yet we can make no positive proposals. Our sole and single ethical prescription becomes “make no claim, make no proposal, judge no thing.” Our business– and it is a business, a tenure business –comes to consist in showing that everything is stained and dirty. In a strange way, we thus become the mirror image of the theologians, yet with the caveat that where they can commit by virtue of their belief in a transcendent term– a horrific God that would condemn trillions to eternal suffering –we can say nothing. Like the theologians we find sin in everything, seeing all as fallen. Like the theologians or the fundamentalist freaks of today, we discard all science as really being masked strategems of power, of interest, that are ultimately constructed and without any truth. We thus strangely find ourselves in the same camp as the climate change denialists, the creationists who use their skepticism as a tool to dismiss evolutionary theory, and those that would treat economic theories as mere theories in the pejorative sense and continue to hold to their neoliberal economics despite the existence of any evidence supporting its claims. We critique everything and yet leave everything intact. The point is not to abandon the project of critique. We’ve all heard the critiques of Marx, Freud, and Nietzsche, of the gender theorists, of the post-colonial theorists, of Bourdieu and his critique of the scholastic disposition (academia and academics), of the Derrideans, the semioticians, and a host of others. These critiques, at this point, are complete. They no longer shock. As Lacan observed in “Position of the Unconscious” in Ecrits, the formations of the unconscious shift and respond to our interpretations of the unconscious. The point is that today we need to find the will to believe a little, to affirm a little, and to commit a little. Marx called for “the ruthless critique of all existing things”, yet that stance has today become the most reactionary and ineffectual position at all. In the absence of daring to affirm certain things as real and true, we leave all intact as it is. Only where we abandon our foundationalist, obsessional assumptions, our desire to have the truth before we pursue the truth, our intoxication with epistemology, will we be able to move beyond this paralysis.

#### The impact is multiple scenarios for extinction

Ketels, 1996

[Violet, associate professor of English at Temple University, where she formerly directed the Intellectual Heritage Program, THE HOLOCAUST: REMEMBERING FOR THE FUTURE: "Havel to the Castle!" The Power of the Word, The American Academy of Political and Social Science, November, 1996, 548 Annals 45, Lexis] /Wyo-MB

Even though, as Americans, we have not experienced "by fire, hunger and the sword" n19 the terrible disasters in war overtaking other human beings on their home ground, we know the consequences of human hospitality to evil. We know about human perfidy: the chasm that separates proclaiming virtue from acting decently. Even those of us trained to linguistic skepticism and the relativity of moral judgment can grasp the verity in the stark warning, "If something exists in one place, it will exist everywhere." n20 That the dreadful something warned against continues to exist anywhere should fill us with an inextinguishable yearning to do something. Our impotence to action against the brutality of mass slaughter shames us. We have the historical record to ransack for precedent and corollaries--letters, documents, testaments, books--written words that would even "preserve their validity in the eyes of a man threatened with instant death." n21 The truths gleanable from the record of totalitarian barbarism cited in them may be common knowledge; they are by no means commonly acknowledged. n22 They appear in print upon many a page; they have not yet--still not yet--sufficiently penetrated human consciousness. Herein lies the supreme lesson for intellectuals, those who have the projective power to grasp what is not yet evident to the general human consciousness: it is possible to bring down totalitarian regimes either by violence or by a gradual transformation of human consciousness; it is not possible to bring them down "if we ignore them, make excuses for them, yield to them or accept their way of playing the game" n23 in order to avoid violence. The history of the gentle revolutions of Poland, Hungary, and [\*51] Czechoslovakia suggests that those revolutions would not have happened at all, and certainly not bloodlessly, without the moral engagement and political activism of intellectuals in those besieged cultures. Hundreds of thousands of students, workers, and peasants joined in the final efforts to defeat the totalitarian regimes that collapsed in 1989. Still, it was the intellectuals, during decades when they repeatedly risked careers, freedom, and their very lives, often in dangerous solitary challenges to power, who formed the unifying consensus, developed the liberating philosophy, wrote the rallying cries, framed the politics, mobilized the will and energies of disparate groups, and literally took to the streets to lead nonviolent protests that became revolutions. The most profound insights into this process that gradually penetrated social consciousness sufficiently to make revolution possible can be read in the role Vaclav Havel played before and during Czechoslovakia's Velvet Revolution. As George Steiner reflects, while "the mystery of creative and analytic genius . . . is given to the very few," others can be "woken to its presence and exposed to its demands." n24 Havel possesses that rare creative and analytic genius. We see it in the spaciousness of his moral vision for the future, distilled from the crucible of personal suffering and observation; in his poet's ability to translate both experience and vision into language that comes as close as possible to truth and survives translation across cultures; in the compelling force of his personal heroism. Characteristically, Havel raises local experience to universal relevance. "If today's planetary civilization has any hope of survival," he begins, "that hope lies chiefly in what we understand as the human spirit." He continues:If we don't wish to destroy ourselves in national, religious or political discord; if we don't wish to find our world with twice its current population, half of it dying of hunger; if we don't wish to kill ourselves with ballistic missiles armed with atomic warheads or eliminate ourselves with bacteria specially cultivated for the purpose; if we don't wish to see some people go desperately hungry while others throw tons of wheat into the ocean; if we don't wish to suffocate in the global greenhouse we are heating up for ourselves or to be burned by radiation leaking through holes we have made in the ozone; if we don't wish to exhaust the nonrenewable, mineral resources of this planet, without which we cannot survive; if, in short, we don't wish any of this to happen, then we must--as humanity, as people, as conscious beings with spirit, mind and a sense of responsibility--somehow come to our senses. n25 Somehow we must come together in "a kind of general mobilization of human consciousness, of the human mind and spirit, human responsibility, human reason." n26

#### The alternative is to reject the 1ac in favor of utopian hope

Hope is a better alternative to the aff—only the aff breeds apathy through cynicism, the alternative fuels progressive engagement and rethinking of power relations, and spurs possibilities for future change

Giroux, 2004

[Henry, When Hope is Subversive, Tikkun Vol. 19, No. 6, http://www.henryagiroux.com/online\_articles/Tikkun%20piece.pdf] /Wyo-MB

Is it possible to imagine hope for justice and humanity after the torture of Iraqi detainees (including some just in their teens) by American soldiers at Abu Ghraib prison? What does hope mean when the United States is virtually unchallenged as it incarcerates unprecedented numbers of young people of color? What does hope teach us at a time in which government lies and deception are exposed on a daily basis in the media and yet appear to have little effect on President Bush’s popular support? What resources and visions does hope offer in a society where greed is considered venerable and profit is the most important measure of personal achievement and social advance? What is the relevance of hope at a time when most attempts to interrupt the operations of an incipient fascism appear to fuel a growing cynicism rather than promote widespread individual and collective acts of resistance? It is hard not to believe that politics in American life has become corrupt, that progressive social change is a distant memory, or that hope is the last refuge of deluded romantics. Civic engagement seems irrelevant in light of the growing power of multinational corporations to privatize public space and time. We have less time—and fewer civic spaces—for experiencing ourselves as political agents. Market values replace social values. Power has become disconnected from issues of equity, social justice, and civic responsibility. People with the education and means appear more and more willing to retreat into the safe, privatized enclaves of the family, religion, and consumption. Those without the luxury of such choices pay a terrible price in what Zygmunt Bauman, in his book Globalization, has called the “hard currency of human suffering. ” Given these social conditions, some theorists have suggested that democratic politics as a site of contestation, critical exchange, and engagement has come to an end. We must not give up so easily. Democracy has to be struggled over, even in the face of a most appalling crisis of educational opportunity and political agency. Cynicism breeds apathy—not the reverse. The current depressing state of our politics and the bankruptcy of our political language issues a challenge to us to formulate a new language and vision that can reframe questions of agency, ethics, and meaning for a substantive democracy. Crafting such a new political language will require what I call “educated hope.” Hope is the precondition for individual and social struggle. Rather than seeing it as an individual proclivity, we must see hope as part of a broader politics that acknowledges those social, economic, spiritual, and cultural conditions in the present that make certain kinds of agency and democratic politics possible. With this understanding, hope becomes not merely a wistful attempt to look beyond the horizon of the given, but what Andrew Benjamin, in Present Hope, calls “a structural condition of the present.” The philosopher Ernst Bloch provides essential theoretical insights on the importance of hope. He argues that hope must be concrete, a spark that not only reaches out beyond the surrounding emptiness of capitalist relations, anticipating a better world in the future, but a spark that also speaks to us in the world we live in now by presenting tasks based on the challenges of the present time. In The Utopian Function of Art and Literature, Bloch argues that hope cannot be removed from the world. Hope is not “something like nonsense or absolute fancy; rather it is not yet in the sense of a possibility; that it could be there if we could only do something for it.” In this view, hope becomes a discourse of critique and social transformation. Hope makes the leap for us between critical education, which tells us what must be changed; political agency, which gives us the means to make change; and the concrete struggles through which change happens. Hope, in short, gives substance to the recognition that every present is incomplete. For theorists such as Bloch and his more contemporary counterparts like Michael Lerner, Cornel West, and Robin D.G. Kelley, hope is anticipatory rather than messianic, mobilizing rather than therapeutic. Understood this way, the longing for a more humane society does not collapse into a retreat from the world but becomes a means to engage with present behaviors, institutional formations, and everyday practices. Hope in this context does not ignore the worst dimensions of human suffering, exploitation, and social relations; on the contrary, as Thomas Dunn writes, it acknowledges the need to sustain the “capacity to see the worst and offer more than that for our consideration” (in Vocations of Political Theory, edited by Jason A. Frank and John Tambornino). Hence, hope is more than a politics, it is also a pedagogical and performative practice that provides the foundation for enabling human beings to learn about their potential as moral and civic agents. Hope is the outcome of those educational practices and struggles that tap into memory and lived experiences while at the same time linking individual re-sponsibility with a progressive sense of social change. As a form of utopian longing, educated hope opens up horizons of comparison by evoking not just different histories but different futures. Educated hope is a subversive force when it pluralizes politics by opening up a space for dissent, making authority accountable, and becoming an activating presence in promoting social transformation. There is a long history in the United States of hope as a subversive force. Examples are evident in the struggles of the Civil Rights and feminist movements in the 1950s and 1960s against racism, poverty, sexism, and the war in Vietnam. More recent examples can be found among young people demonstrating against multinational corporations and the World Trade Organization in cities as diverse as Melbourne, Seattle, and Genoa. Hope was on full display among organized labor, intellectuals, students, and workers protesting together in the streets of New York City against Bush’s policies and his followers at the Republican National Convention. This is not to say that a politics and pedagogy of hope is a blueprint for the future: it is not. What hope offers is the belief, simply, that different futures are possible. In this way, hope can become a subversive force, pluralizing politics by opening up a space for dissent, contingency, indeterminancy. “For me,” writes Judith Butler, “there is more hope in the world when we can question what is taken for granted, especially about what it is to be human” (cited by Gary Olson and Lynn Worsham in JAC20:4). Zygmunt Bauman in a conversation with Keith Tester (in Conversations with Zygmunt Bauman) goes further, arguing that the resurrection of any viable notion of political and social agency is dependent upon a culture of questioning, the purpose of which, as he puts it, is to “keep the forever unexhausted and unfulfilled human potential open, fighting back all attempts to foreclose and pre-empt the further unravelling of human possibilities, prodding human society to go on questioning itself and preventing that questioning from ever stalling or being declared ﬁnished.” The goal of educated hope is not to liberate the individual from the social–a central tenet of neoliberalism—but to take seriously the notion that the individual can only be liberated through the social. Educated hope as a subversive, defiant practice should provide a link, however transient, provisional, and contextual, between vision and critique on the one hand, and engagement and transformation on the other. That is, for hope to be consequential it has to be grounded in a project that has some hold on the present. Hope becomes meaningful to the degree that it identifies agencies and processes, offers alternatives to an age of profound pessimism, reclaims an ethic of compassion and justice, and struggles for those institutions in which equality, freedom, and justice ﬂourish as part of the ongoing struggle for a global democracy.

## **3**

#### **Will pass now; Obama and Boehner on board, but Obama’s PC key**

Kuhnhenn, 1-7

[JIM KUHNHENN, Associated Press, “For Obama, Congress, a Last Grasp at Immigration,” abcnews.com, January 7, 2014, <http://abcnews.go.com/Politics/wireStory/obama-congress-grasp-immigration-21444316> //uwyo-baj]

His agenda tattered by last year's confrontations and missteps, President Barack Obama begins 2014 clinging to the hope of winning a lasting legislative achievement: an overhaul of immigration laws. It will require a deft and careful use of his powers, combining a public campaign in the face of protests over his administration's record number of deportations with quiet, behind-the-scenes outreach to Congress, something seen by lawmakers and immigration advocates as a major White House weakness. In recent weeks, both Obama and House Speaker John Boehner, R-Ohio, have sent signals that raised expectations among overhaul supporters that 2014 could still yield the first comprehensive change in immigration laws in nearly three decades. If successful, it would fulfill an Obama promise many Latinos say is overdue. The Senate last year passed a bipartisan bill that was comprehensive in scope that addressed border security, provided enforcement measures and offered a path to citizenship for 11 million immigrants in the United States illegally. House leaders, pressed by tea party conservatives, demanded a more limited and piecemeal approach. Indicating a possible opening, Obama has stopped insisting the House pass the Senate version. And two days after calling Boehner to wish him happy birthday in November, Obama made it clear he could accept the House's bill-by-bill approach, with one caveat: In the end, "we're going to have to do it all." Boehner, for his part, in December hired Rebecca Tallent, a former top aide to Sen. John McCain and most recently the director of a bipartisan think tank's immigration task force. Even opponents of a broad immigration overhaul saw Tallent's selection as a sign legislation had suddenly become more likely. Boehner also fed speculation he would ignore tea party pressure, bluntly brushing back their criticism of December's modest budget agreement.

#### Fighting to defend his war power will sap Obama’s capital, trading off with rest of agenda

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

**While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 **In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61 **When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Reform key to biotech leadership

Schuster 13

(Dr. Sheldon – President @ Keck Graduate Institute, “Immigration Reform Could Lead to Great Things, Including Better Science and Better Science Education” 02/17/2013, http://www.huffingtonpost.com/dr-sheldon-schuster/immigration-reform-could-\_b\_2706832.html)

These students and young researchers not only do amazing things while they're here but their ideas and their drive enhances the quality of education for all of our students and the quality of life for all of our citizens. There can be a multiplying effect to innovation when international knowledge and ideas gain their own traction in homegrown academic institutions and industries. German rocket scientists who came to work in the U.S. in the wake of World War II were not solely responsible for landing Neil Armstrong on the moon. But they were the core from which a great international community of scholars and engineers were able to take NASA to astounding heights. The input of international students teaches all of our students how to integrate ideas that may vary greatly from their own and how to approach problems from a global perspective -- two skills that are required for success in the life science industry and that we need if we are to continue to remain the world leader in the rapidly advancing biotechnologies, such as individualized human genome sequencing. Reforming our immigration system so that more young professionals like these have the option to work in the United States not only boosts the national economy and strengthens the biotech hubs here in Southern California, which are so important to my state's economy, it also improves the quality of U.S. academic institutions, and, ultimately, is likely to hasten the pace of scientific discovery and innovation. It will certainly go a long way toward keeping the U.S. and its academic institutions at the center of such discovery and innovation.

#### Biotech key to solve bioterror attacks

**Bailey 1** [Ronald, award-winning science correspondent for Reason magazine and Reason.com, where he writes a weekly science and technology column. Bailey is the author of the book Liberation Biology: The Moral and Scientific Case for the Biotech Revolution (Prometheus, 2005), and his work was featured in The Best American Science and Nature Writing 2004. In 2006, Bailey was shortlisted by the editors of Nature Biotechnology as one of the personalities who have made the "most significant contributions" to biotechnology in the last 10 years. 11/7/1, “The Best Biodefense,” Reason, <http://reason.com/archives/2001/11/07/the-best-biodefense>]

But Cipro and other antibiotics are just a small part of the arsenal that could one day soon be deployed in defending America against biowarfare. Just consider what’s in the pipeline now that could be used to protect Americans against infectious diseases, including bioterrorism. A Pharmaceutical Manufacturers and Research Association survey found 137 new medicines for infectious diseases in drug company research and development pipelines, including 19 antibiotics and 42 vaccines. With regard to anthrax, instead of having to rush a sample to a lab where it takes hours or even days to culture, biotech companies have created test strips using antibody technologies that can confirm the presence of anthrax in 15 minutes or less, allowing decontamination and treatment to begin immediately. Similar test strips are being developed for the detection of smallpox as well. The biotech company EluSys Therapeutics is working on an exciting technique which would "implement instant immunity." EluSys joins two monoclonal antibodies chemically together so that they act like biological double-sided tape. One antibody sticks to toxins, viruses, or bacteria while the other binds to human red blood cells. The red blood cells carry the pathogen or toxin to the liver for destruction and return unharmed to the normal blood circulation. In one test, the EluSys treatment reduced the viral load in monkeys one million-fold in less than an hour. The technology could be applied to a number of bioterrorist threats, such as dengue fever, Ebola and Marburg viruses, and plague. Of course, the EluSys treatment would not just be useful for responding to bioterrorist attacks, but also could treat almost any infection or poisoning. Further down the development road are technologies that could rapidly analyze a pathogen’s DNA, and then guide the rapid synthesis of drugs like the ones being developed by EluSys that can bind, or disable, segments of DNA crucial to an infectious organism's survival. Again, this technology would be a great boon for treating infectious diseases and might be a permanent deterrent to future bioterrorist attacks. Seizing Bayer’s patent now wouldn’t just cost that company and its stockholders a little bit of money (Bayer sold $1 billion in Cipro last year), but would reverberate throughout the pharmaceutical research and development industry. If governments begin to seize patents on the pretext of addressing alleged public health emergencies, the investment in research that would bring about new and effective treatments could dry up. Investors and pharmaceutical executives couldn’t justify putting $30 billion annually into already risky and uncertain research if they couldn’t be sure of earning enough profits to pay back their costs. Consider what happened during the Clinton health care fiasco, which threatened to impose price controls on prescription drugs in the early 1990s: Growth in research spending dropped off dramatically from 10 percent annually to about 2 percent per year. A far more sensible and farsighted way to protect the American public from health threats, including bioterrorism, is to encourage further pharmaceutical research by respecting drug patents. In the final analysis, America’s best biodefense is a vital and profitable pharmaceutical and biotechnology industry.

#### Extinction

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John Steinbrenner, Senior Fellow – Brookings, Foreign Policy, 12-22-1997, Lexis
Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

## Case

#### Debating the law teaches us how to make it better and recover our agency – rejection is worse

Todd Hedrick, Assistant Professor of Philosophy at Michigan State University, Sept 2012, 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.

#### The aff doesn’t influence legal decisionmaking and results in tyranny

Paul **Passavant**, Ph.D., Hobart and William Smith College Associate Professor of Political Science, December 20**10**, Yoo's Law, Sovereignty, and Whatever, Constellations Volume 17, Issue 4, pages 549–571

For some on the left, it has become conventional to celebrate, if not cultivate, pluralism, whether this means multiple forms of being or multiple interpretive possibilities with regard to texts. It has also become conventional to be critical of “sovereignty” and of “law.” Multiplicity is thought to be a threat to sovereignty, and this threat is thought to be democratizing or a force that resists oppression. The Italian philosopher Giorgio Agamben exemplifies these tendencies within contemporary political and legal theory. In some of his earlier and less well-known work, he aspires toward a “coming community” that he calls “whatever being.” Whatever being embraces the infinite communicative possibilities of language as pure means beyond a preoccupation with true or false propositions.¶ In his best-known work, Agamben links sovereignty to the production of rightless subjects and the Nazi death camps. He urges us to rethink the very ontological basis of politics in the West, creating a human being beyond sovereignty or law, in order to avoid perilous outcomes. One key to surpassing the logic of sovereignty, according to Agamben, is whatever being's positive relation to the singularities of life and the multiplicities of communication.¶ Whatever being is also being outside of law. If “law” persists in this “coming community,” it would be a “law” that has become deactivated and deposed from its prior purposes. “Law” will have become an object for play – something to be toyed with the way that children might come upon a disused object and play with it by putting it to uses disconnected from whatever purpose this object might once have had.¶ Why does the fact of playful communicative possibilities lead to either more democracy or a less brutal world? The most conservative United States Supreme Court justices have recently embraced the fact that texts are open to multiple interpretations. For example, Samuel Alito has suggested that the meaning of public monuments is open to multiple interpretations that may shift over time to avoid a potential First Amendment establishment clause problem over a monument of the Ten Commandments in a public park.1 Yet, as the late Justice Blackmun has written regarding state endorsement of religion, “government cannot be premised on the belief that all persons are created equal when it asserts that God prefers some.”2 Recognizing the possibility of multiple interpretations, as this instance shows, does not lead necessarily to outcomes friendly to democracy.¶ In this essay, I investigate how playing with the multiplicity of communicative possibilities can, **contrary to Agamben's expectations**, actually **facilitate aspirations for unitary sovereign power**. My argument unfolds in the context of the legal arguments put forward by Bush administration lawyer John Yoo, particularly those enabling torturous interrogations.¶ Those, like Agamben, who favor interpretive pluralism in itself rarely, if ever, have right-wing supporters of unchecked presidentialism in mind. Reading the scholarship and legal memoranda of John Yoo, formerly in the Bush administration's Office of Legal Counsel (OLC) and presently a University of California, Berkeley law professor, however, approaches an experience of pure mediality or of law that has become deposed or disconnected from its purposes. Yoo is well known as the author of the key legal memoranda asserting the president's discretionary power to make war, to engage in warrantless surveillance, and, most infamously, justifying torturous methods of interrogation. Some scholars refer to Lewis Carroll's Alice in Wonderland to describe the experience of reading Yoo's legal memos.3 Is **John Yoo an exemplar of the whatever being** and pure mediality that Agamben describes and to which he contends politics should aspire?¶ In this paper, I describe how Yoo gestures toward pure mediality, as he indicates the experience of language itself as pure communicability or as pure means in his legal work when he emphasizes the openness of law to being exposed to new, different, flexible, or plural interpretive possibilities. I argue, however, that Yoo is not well described as whatever being. His work repeats too consistently in the direction of absolute presidential decisionism to be open to whatever.¶ Instead, Yoo's work may capture a broader development within our society that Agamben describes as the emergence of whatever being. Without saying that there has been no resistance to the Bush administration's warrantless wiretapping and policies of torturous interrogations, the contrast between the response to the Nixon administration and the Bush administration is striking. Richard Nixon resigned one step ahead of impeachment in the midst of mass protests against his presidency. The articles of impeachment, for instance, addressed how Nixon engaged in warrantless wiretapping, and refused to execute laws passed by Congress faithfully while repeatedly engaging in conduct that violated the constitutional rights of citizens. Congress also passed major acts of legislation to prevent a president such as Nixon from ever again abusing power the way he had. These laws include the War Powers Act of 1973, the Budget Impoundment and Control Act of 1974, and the Foreign Intelligence Surveillance Act (FISA) of 1978.¶ In contrast, almost no one seems to have noticed that the Bush administration claimed power to make war at the president's sole discretion. Additionally, upon learning that the Bush administration engaged in criminal acts of surveillance, Congress amended FISA in the summer of 2008 to expand the government's power to spy on Americans, while immunizing from legal accountability non-state actors who collaborated with the then-criminal acts of government officials who followed Bush's illegal orders. Congress tried to make it impossible for those detained to question, legally, their detention or to bring the torturous treatment they endured to a court's attention, while allowing the intelligence agencies to continue to engage in torturous acts by passing the Military Commissions Act of 2006 (MCA). This complicity on the part of Congress cannot be explained on partisan grounds as many Democrats voted in favor of the MCA, and upon becoming the majority party in Congress, they have not rescinded it. Indeed, it was a Democratic-controlled Congress that brushed the Bush administration's illegal surveillance under the rug in 2008.4 Moreover, upon taking power in 2006, the Democratic leadership immediately stated that they would not pursue impeachment. Former Reagan administration Department of Justice lawyer Bruce Fein has decried the lack of outrage at the Bush administration's illegalities by suggesting that the nation has become a collection of constitutional “illiterates.”5 **Perhaps law is being deposed as Agamben suggests**.¶ Both Agamben's and Fein's observations may also indicate a failure of what Michel Foucault would call disciplinary power – the power to constitute subjects capable of exercising power, here the powers of liberal democracy – a failure that Gilles Deleuze has identified with the emergence of societies of control, and a subjective and ontological diversity that Michael Hardt and Antonio Negri call the “multitude.”6 They also indicate practices of textual “interpretation” where interpretative acts extricate legal texts from the narratives that once oriented their purposes and animated these texts for a republican and anti-monarchical polity. Robert Cover argues, however, that law is part of a narrative practice constitutive of subjects and a way of life.7 Insofar as interpretive practices become extricated from the possibility of narrative, then, we may indeed doubt the continuing existence of “law,” as Agamben posits. Psychoanalytic theory also identifies a loss of a structuring meaning in contemporary society and describes this as the decline of symbolic efficiency.8¶ In sum, there appears to be a phenomenon emerging in contemporary society that a variety of different theoretical and political perspectives are struggling to grasp and evaluate. While Agamben welcomes the failures of disciplinary powers as enabling the emergence of whatever being and the “coming community,” it is a cause for concern among those seeking to keep the faith with republicanism, with liberal democracy, or with a Constitution representing these aspirations. In this light, we can be more specific than Agamben about the kind of threat that whatever being poses to the state or to sovereignty.¶ Contrary to Agamben's contentions, I find that whatever being is no threat at all to the kind of unitary sovereignty that Agamben uses to theorize the state in his book Homo Sacer. Why would it be? Whatever being would be equally at ease with the legal justifications on behalf of a “unitary” sovereignty as it would anything else. If we, however, give the achievements of the people their due and consider the question of sovereignty from the perspective of popular sovereignty, of the assemblies and assemblages of power through which liberal democratic states seek to extend themselves and to govern at a distance, then whatever being is very much a danger to this type of power. Whatever being can be understood as facilitating a process of deposing this law and this state. A relation of whatever to the installation of a state of unchecked presidential powers and torture can be the **death knell of popular sovereignty**

 dedicated to the purpose of opposing tyranny. Whatever being is not the enemy of any state or form of “sovereignty.” It is the enemy of popular sovereignty. Whatever ruins democracy. **If we want more than unchecked presidential power and torture, then we will have to dedicate ourselves to certain purposes**, like resisting tyranny and recalling that this was the purpose of the U.S. Constitution.

**Global democracy inevitable**

**Tow 10**—Director of the Future Planet Research Centre (David, Future Society- The Future of Democracy, 26 August 2010, http://www.australia.to/2010/index.php?option=com\_content&view=article&id=4280:future-society-the-future-of-democracy&catid=76:david-tow&Itemid=230)

Democracy, as with all other processes engineered by human civilisation, is evolving at a rapid rate. A number of indicators are pointing to a major leap forward, encompassing a more public participatory form of democratic model and the harnessing of the expert intelligence of the Web. By the middle of the 21st century, such a global version of the democratic process will be largely in place.Democracy has a long evolutionary history. The concept of democracy - the notion that men and women have the right to govern themselves, was practised at around 2,500 BP in Athens. The Athenian polity or political body, granted all citizens the right to be heard and to participate in the major decisions affecting their rights and well-being. The City State demanded services and loyalty from the individual in return. There is evidence however that the role of popular assembly actually arose earlier in some Phoenician cities such as Sidon and Babylon in the ancient assemblies of Syria- Mesopotamia, as an organ of local government and justice. As demonstrated in these early periods, democracy, although imperfect, offered each individual a stake in the nation’s collective decision-making processes. It therefore provided a greater incentive for each individual to cooperate to increase group productivity. Through a more open decision process, improved innovation and consequently additional wealth was generated and distributed more equitably. An increase in overall economic wellbeing in turn generated more possibilities and potential to acquire knowledge, education and employment, coupled with greater individual choice and freedom. According to the Freedom House Report, an independent survey of political and civil liberties around the globe, the world has made great strides towards democracyin the 20th and 21st centuries. In 1900 there were 25 restricted democracies in existence covering an eighth of the world’s population, but none that could be judged as based on universal suffrage. The US and Britain denied voting rights to women and in the case of the US, also to African Americans. But at the end of the 20th century 119 of the world’s 192 nations were declared electoral democracies. In the current century, democracy continues to spread through Africa and Asia andsignificantly also the MiddleEast,withover 130 states invarious stages of democratic evolution.Dictatorships or quasi democratic one party states still exist in Africa, Asia and the middle east with regimes such as China, North Korea, Zimbabwe, Burma, the Sudan, Belarus and Saudi Arabia, seeking to maintain total control over their populations. However two thirds of sub-Saharan countries have staged elections in the past ten years, with coups becoming less common and internal wars gradually waning. African nations are also starting to police human rights in their own region. African Union peacekeepers are now deployed in Darfur and are working with UN peacekeepers in the Democratic Republic of the Congo. The evolution of democracy can also be seen in terms of improved human rights. The United Nations Universal Declaration of Human Rights and several ensuing legal treaties, define political, cultural and economic rights as well as the rights of women, children, ethnic groups and religions. This declaration is intended to create a global safety net of rights applicable to all peoples everywhere, with no exceptions. It also recognises the principle of the subordination of national sovereignty to the universality of human rights; the dignity and worth of human life beyond the jurisdiction of any State. The global spread of democracy isnow alsoirreversibly linked to the new cooperative globalisation model. The EU, despite its growing pains, provides a compelling template; complementing national decisions in the supra-national interest at the commercial, financial, legal, health and research sharing level. The global spread of new technology and knowledge also provides the opportunity for developing countries to gain a quantum leap in material wellbeing; an essential prerequisite for a stable democracy. The current cyber-based advances therefore presage a much more interactive public form of democracy and mark the next phase in its ongoing evolution. Web 2.0’s social networking, blogging, messaging and video services have already significantly changed the way people discuss political issues and exchange ideas beyond national boundaries. In addition a number of popular sites exist as forums to actively harness individual opinions and encourage debate about contentious topics, funnelling them to political processes. These are often coupled to online petitions, allowing the public to deliver requests to Government and receive a committed response. In addition there are a plethora of specialized smart search engines and analytical tools aimed at locating and interpreting information about divisive and complex topics such as global warming and medical stem cell advances. These are increasingly linked to Argumentation frameworks and Game theory, aimed at supporting the logical basis of arguments, negotiation and other structured forms of group decision-making. New logic and statistical tools can also provide inference and evaluation mechanisms to better assess the evidence for a particular hypothesis. By 2030 it is likely that such ‘intelligence-based’ algorithms will be capable of automating the analysis and advice provided to politicians, at a similar level of quality and expertise as that offered by the best human advisers. It might be argued that there is still a need for the role of politicians and leaders in assessing and prioritising such expert advice in the overriding national interest. But a moment’s reflection leads to the opposite conclusion. Politicians have party allegiances and internal obligations that can and do create serious conflicts of interest and skew the best advice. History is replete with such disastrous decisions based on false premises, driven by party political bias and populist fads predicated on flawed knowledge. One needs to look no further in recent times than the patently inadequate evidential basis for the US’s war in Iraq which has cost at least half a million civilian lives and is still unresolved. However there remains a disjunction between the developed west and those developing countries only now recovering from colonisation, the subsequent domination by dictators and fascist regimes and ongoing natural disasters. There is in fact a time gap of several hundred years between the democratic trajectory of the west and east, which these countries are endeavouring to bridge within a generation; often creating serious short-term challenges and cultural dislocations. A very powerful enabler for the spread of democracy as mentioned is the Internet/Web- today’s storehouse of the world’s information and expertise. By increasing the flow of essential intelligence it facilitates transparency, reduces corruption, empowers dissidents and ensures governments are more responsive to their citizen’s needs. Ii is already providing the infrastructure for the emergence of a more democratic society; empowering all people to have direct input into critical decision processes affecting their lives, without the distortion of political intermediaries. By 2040 more democratic outcomes for all populations on the planet will be the norm. Critical and urgent decisions relating to global warming, financial regulation, economic allocation of scarce resources such as food and water, humanitarian rights and refugee migration etc, will to be sifted through community knowledge, resulting in truly representative and equitable global governance. Implementation of the democratic process itself will continue to evolve with new forms of e-voting and governance supervision, which will include the active participation of advocacy groups supported by a consensus of expert knowledge via the Intelligent Web 4.0. Over time democracy as with all other social processes, will evolve to best suit the needs of its human environment. It will emerge as a networked model- a non-hierarchical, resilient protocol, responsive to rapid social change. Such distributed forms of government will involve local communities, operating with the best expert advice from the ground up; the opposite of political party self-interested power and superficial focus-group decision-making, as implemented by many current political systems. These are frequently unresponsive to legitimate minority group needs and can be easily corrupted by powerful lobby groups, such as those employed by the heavy carbon emitters in the global warming debate.

# 2nc

## Ptx

### 2NC- A2: Piece Meal

**Obama has renewed a push for CIR or anything that resembles CIR, but make a deal over anything that leaves the core out**

**NVO Online 12-24**

(Northern Voices Online. “Immigration reform 2013: At last Obama reasserts authority over comprehensive bill” 12-24-13 http://nvonews.com/2013/12/24/immigration-reform-2013-at-last-obama-reasserts-authority-over-comprehensive-bill//wyoccd)

Many said that he had lost interest as far as immigration reform 2013 bill was concerned. But President **Obama is reasserting himself over comprehensive reform** bill. Many said that after advocating it for years, the President seemed to be losing interest in it. But now it doesn’t seem to be true. Instead President Barack **Obama seems to be pushing for the comprehensive immigration reform bill the hardest**.¶ After Boehner**, it seems to be the time for President Obama to vacillate over the immigration reform bill.** After clearly saying okay to a piecemeal approach to the immigration reform bill till very late, Obama is now is pushing his top Democrats in Capitol Hill to pass the comprehensive immigration reform.¶ This Friday Obama suddenly changed his stance and urged the House to back the comprehensive, bipartisan immigration bill the Senate passed this summer, when this very Thanksgiving he was fine with carving the bill into five pieces, like the turkey.¶ In a year-end press conference the President said, “**The Senate bill has the main components of comprehensive immigration reform that would boost our economy, give us an opportunity to attract more investment and high-skilled workers who are doing great things i**n places like Silicon Valley and around the country,” Obama said in the year-end press conference. “So let’s go ahead and get that done.”¶ This is in sharp contrast to his November statement where he had said, “**As long as all five pieces get done, I don’t care what it looks like. What we don’t want to do is simply carve out one piece of it . . . but leave behind some of the tougher stuff that still needs to get done**.”¶ In November House Speaker John Boehner had refused to take up the bill, declaring, “We have no intention of ever going to conference on the Senate bill.” But repeated and vigorous criticism led him to be open to the idea of taking up the bill and he expressed willingness to pass reform, but only after waiting until after the congressional primaries this spring and summer. So far the fate of more than 11 million illegal immigrants residing in the country is hanging as House Republican leaders refuse to take up the immigration overhaul passed in June by the Senate, despite the fact that it would probably pass if it were allowed a vote on the floor. The leadership does realize though that the nation must come to terms with the immigrants, who are deeply woven into the fabric of communities and the economy across America.

#### Despite Boehners statements, Obama is pushing and extending an olive branch to develop CIR

Lucas 11-13

(Fred Lucas is TheBlaze's White House correspondent. “CARNEY CLAIMS OBAMA IS WILLING TO ‘ASSIST’ THE REPUBLICAN PARTY POLITICALLY WITH IMMIGRATION REFORM” 11-13-13 http://www.theblaze.com/stories/2013/11/13/carney-claims-obama-is-willing-to-assist-the-republican-party-politically-with-immigration-reform//wyoccd)

President Barack Obama is willing to assist in legislation to benefit Republicans politically, White House press secretary Jay Carney said – speaking of immigration reform.¶ “It’s good for the country, it’s good for the economy, it’s good for the middle class, it’s good for business, and it would be good for the Republican party,” Carney told reporters Wednesday during the White House press briefing. “I now that you know that every Republican leader you talk to agrees with that. The president is more than willing to assist in delivering that benefit – we’re talking about politics – to the Republican party.”¶ On the day that House Speaker John Boehner (R-Ohio) said the House would not consider the Senate immigration bill that passed in June, Obama met with faith leaders at the White House who favor a “pathway to citizenship” for the more than 11 million illegal immigrants in the country. The bill would also increasing border security.¶ “What the House could do, this week, is take up their own comprehensive immigration bill,” Carney said Wednesday, noting that Boehner did not rule out a separate House bill. “There is one the House Democrats put forward that reflects the president’s principles, that reflects the principles of the bipartisan Senate bill and that we strongly believe would pass the House with substantial majority support from both parties if the speaker would bring it to a vote.”¶ Opponents of the legislation call the bill “amnesty.” Many in the GOP fear that legalizing millions of new immigrants would mean generations of Democratic voters.¶ Boehner said the House won’t vote on the Senate legislation, but said Republican will determine what principles they can agree on for immigration reform.¶ “The idea that we’re going to take up a 1,300-page bill that no one had ever read, which is what the Senate did, is not going to happen in the House and frankly I’ll make clear we have no intention of ever going to conference on the Senate bill,” Boehner told reporters on Capitol Hill Wednesday.¶ At the White House, Obama, Vice President Joe Biden and other administration officials met with pastors from across the nation.¶ “The President and the leaders discussed their shared commitment to raise the moral imperative for immigration reform and said they will continue keeping the pressure on Congress so they can swiftly pass commonsense reform,” said the White House readout of the meeting. “The President commended the faith leaders for their tireless efforts in sharing their stories with Congress. He noted there is no reason for House Republicans to continue to delay action on this issue that has garnered bipartisan support.”¶ The faith leaders in attendance at the White House were Leith Anderson, president of the National Association of Evangelicals; Eusebio Elizondo, Auxiliary Bishop, Archdiocese of Seattle; Joel Hunter, senior pastor at Northland Church in Orlando, Fla.; Hyepin Im, CEO of Korean Churches for Community Development in Los Angeles; Mike McClenahan, senior pastor at Solana Beach Presbyterian Church in Solana Beach, Calif.; Russell Moore, president of the Southern Baptist Ethics and Religious Liberty Commission in Nashville, Tenn.; Rev. Gabriel Salguero, president of theNational Latino Evangelical Coalition and Jim Wallis, president of Sojourners.

### 2NC PC Key

#### Obama has sufficient momentum now to pass immigration reform --- it is the top priority

Taylor, 1/5 (David, 1/5/2014, thetimes.co.uk, “Fun in sun over as Obama gets serious about second term,” Factiva))

With Mr Obama’s personal approval ratings at their lowest point following the accident-prone launch of his healthcare reforms, his Administration nontheless enters 2014 marked by cautious optimism. The President’s inner circle is buoyed by the end-of-year budget deal struck with senior Republicans, believing that it may herald sufficient cross-party momentum to push through comprehensive immigration reform, the top priority of hissecond term.And the arrival of Bill Clinton’s former chief of staff, John Podesta, as a senior counsellor is intended to give some impetus to his agenda on tackling climate change. Mr Podesta, a veteran of dealing with a hostile Congress, will also be part of a new team working with lawmakers on Capitol Hill. Jay Carney, White House spokesman, said yesterday: “We have some modest momentum after the budget deal. We come into 2014 with some optimism — guarded, cautious, but hopeful that we can make further progress and looking to see if we can work together in the interests of the American people." The White House has indicated that plans to increase the minimum wage would be a central theme of the President’s State of the Union address later this month, where the focus will be on help for hard-working Americans to get the economy moving. The President landed with his daughters in the Marine One helicopter yesterday morning on the south lawn of the White House, after a family break in Hawaii which, unlike recent years, was not cut short by terror plots or financial crises. He managed nine games of golf in 15 days, snorkelled in Hanauma Bay, and repeat visits to Morimoto Waikiki, the Hawaiian restaurant of television’s Iron Chef star Masaharu Morimoto. Michelle Obama stayed behind in Hawaii with girlfriends for a few extra days — a gift from her husband as part of her 50th birthday celebrations later this month. As well as planning for the State of the Union, Mr Obama will this month make a major speech in response to the wave of revelations about America’s online surveillance machinery. Speaker Boehner is emerging as an unlikely ally on immigration reform. The Republican leader of the House is now in open warfare with the Tea Party after blaming the conservative Right for dragging the party into a damaging government shutdown in their failed strategy to defund Obamacare. He has appointed Senator John McCain’s former chief of staff, Rebecca Tallent,as an adviser on the issue. She helped draw up amnesty bills for illegal immigrants in the mid-2000s and published a landmark report ten weeks ago showing how, over 20 years, immigration reform would help the US economy grow by 4.8 per cent, boost housing construction by $68 billion, and cut the US deficit by $1.2 trillion, while off-setting the cost of an ageing population.

**Capital’s key but limited – the plan disrupts Obama’s careful strategy**

**Eilperin and Tumulty 12/10** (Juliet, House of Representatives reporter for Washington Post, and Karen, national political correspondent for The Washington Post, “Podesta, Schiliro to return to White House,”<http://www.washingtonpost.com/politics/podesta-schiliro-to-return-to-white-house/2013/12/10/194b22f4-61a7-11e3-94ad-004fefa61ee6_story.html>)

President **Obama is embarking on his biggest organizational overhaul** of the White House **since 2010, bringing in Washington veterans and rethinking the way he approaches** some of the most pressing policy **decisions** he will make during the remainder of his second term. **The decision to enlist influential Democratic strategist John D. Podesta, just days after bringing back** his former legislative affairs chief Phil **Schiliro, signals a larger shift in how the White House will operate i**n coming months. Eager to salvage his landmark health-care law and advance climate-change policy before he leaves office, Obama and his aides are open to empowering a handful of advisers with broader policy portfolios to ensure the administration achieves its goals. The president and his aides have been discussing a possible reorganization with some trusted outside advisers for at least a month, according to a senior White House official, who spoke on the condition of anonymity because of the topic’s sensitive nature. The staff ­changes will continue in the coming weeks, the official said. **The moves mark a recognition by the White House that it needed to change its operations in light of the botched Oct. 1 rollout of the health-care law,** particularly given that Pete Rouse, the president’s longest-serving aide, will be leaving by the end of the year. Obama has been hesitant to replace many within his small inner circle operating in the West Wing, in part because his limited time in Washington before the presidency left him with relatively few trusted advisers. While he replaced several key members of his Cabinet after his 2012 re­election — including his secretaries of state, Treasury and defense — it is a measure of how static White House staff has been that the recruitment of two former advisers, on a temporary basis, amounts to a staff shake-up. “**Obama still has an opportunity to get one or two major initiatives through Congress, possibly immigration reform, but he doesn’t have much gas left in the tank,” New York University public affairs professor Paul C. Light wrote in an e-mail. “Podesta and Schiliro may be able to ration Obama’s declining political capital, and hold the line on House Republican attacks. The door is closing on Obama’s presidency** — these two advisers know how to do it as well as it can be done.” The White House’s handling of the health-care law’s implementation, Obama’s lack of knowledge about the scope of the National Security Agency’s eavesdropping program and other missteps have damaged the president’s credibility and raised questions about the West Wing’s competence. Republican critics and Democratic allies have called on Obama to fire at least one senior staff member, a step Obama has so far resisted. Podesta has done multiple stints on Capitol Hill and served twice in the Clinton White House, taking over as chief of staff in 1998 and steering the ship through Clinton’s House impeachment. After Clinton left office, Podesta founded the Center for American Progress (CAP), a liberal think tank, and managed Obama’s transition team in 2008. Obama officials emphasized that the two recent hires were distinct: Schiliro will serve only for a few months and is focused exclusively on steering the administration’s health-care policy. But the moves, along with Rouse’s imminent departure, mark one of the most significant shifts in White House staffing since the ­changes Obama made in the wake of Democratic losses in the 2010 midterms. After that election, senior aides David Axelrod, Jim Messina and Mona Sutphen left and the political director’s job occupied by Patrick Gaspard was eliminated. Obama political strategist David Plouffe came on as a senior adviser, and William Daley took over as chief of staff. Former White House deputy senior adviser Stephanie Cutter, now a partner at the consulting firm Precision Strategies, wrote in an e-mail that adding **the two advisers “brings some fresh thinking and brain power, because they haven’t been in the foxhole these last several months or even years.” “They also bring institutional knowledge of the workings of the West Wing” and other parts of Washington, she added. Several former administration officials and Obama supporters said the realignment amounts to an acknowledgment that the current policy and legislative affairs operations have key vulnerabilities**. The president felt the need to quiet “the chattering classes” who have suggested his team needs “more inside Washington experience,” the senior White House aide said. One former White House official, who asked for anonymity in order to speak frankly, said the ­changes reflect a recognition that the White House’s insular leadership was no longer capable of managing the administration’s myriad problems. Much of the key decision making rests with White House Chief of Staff Denis McDonough, Rouse and senior adviser Valerie Jarrett. Several White House officials said recruiting Podesta was McDonough’s idea. Schiliro will be focused on bolstering the administration’s relationship with lawmakers who are nervous about the health-care law’s impact and head off any further problems with the law’s implementation. The decision to bring in Podesta reflects the president’s intent to exercise his executive authority on several key fronts. White House communications director Jennifer Palmieri said Podesta will help the administration strategize about “how do you leverage all the resources you have in the federal government to advance your agenda in a political year.” In an interview with The Washington Post this fall, Podesta said Obama’s “path to success is going to come through every single place that you can squeeze some authority which he has. That is **where you’ve got to focus your attention and where you could spend your political capital.”**

### Security turn

#### scenario creation isn't the same as threat construction, it’s crucial to see if policies are a good idea and reduce the risk of nuclear war.

Darryl S.L.**Jarvis** - School of Economics & Political Science, U. of Sydney - **2K3** "Political Risk in International Relations: Empirical Experiences and Conceptual Approaches" School of Economics and Political Science, Working Papers

Scenario generation has its origins in the Cold War when strategic analysts developed the method for helping to think futuristically about driving forces, chains of events, or possible trigger points that might lead to conflict between the Warsaw Pact and NATO, and how, if this occurred, the conflict might proceed. In essence, scenario generation was used to plot logically plausible possibilities and then to model responses, strategic positioning strategies, and to formulate war-fighting and contingency plans. Cold War scenario generation was said to be so successful in modeling circumstances of possible nuclear confrontation with devastating and mass annihilation outcomes, that policy makers were moved to develop the doctrine of MAD (Mutually Assured Destruction) and various avoidance strategies to avert the possibility of nuclear confrontation.64 The essence of scenario generation is defined by Geoff Coyle as “a justified and traceable sequence of events which might plausibly be imagined to occur in the future.”65 Importantly, scenarios are not “forecasts, preferences or predictions, but plausible, challenging descriptions of what might happen—in the form of a set of stories about alternative futures.”66 To this end, scenario analysis builds on many of the techniques of the Delphi method. But rather than use intermediaries to design survey questionnaires, identify experts and synthesize and interpret responses, scenario generation allows experts to develop scenarios that lay bare assumptions and the rationale on which interpretations are made, and to develop possible sketches of anticipated events and their probable time lines. The thinking behind this is to allow those who utilize scenarios to make informed decisions and to evaluate the scenarios generated relative to the assumptions on which they have been based. Apart from the military, some of the first institutions to employ scenario generation were commercial organizations. The Royal Dutch Shell Company, for example, pioneered scenario analysis under the auspices of three prominent individuals, Peter Schwartz, Kees van der Heijden and Peter Checkland.67 However, despite some 30 years of scenario generation no formal models exist; indeed the notion of formal techniques is actively resisted. Rather, scenario generation stresses creative, imaginary, challenging discourses about possible futures by looking at the dominant drivers of societal change and risk. These are normally categorized under the well known PEST acronym (political, economic, social and technological factors) as the primary drivers of change and risk, and primary determinations of future worlds, processes and events. Scenarios, however, are not used to write the future but to outline possibilities in relation to key decisions that need to be taken today and of the possible future implications of these decisions given a constantly changing environment. It is, in this sense, an attempt to map possible trajectories and outcomes and logically construct images of cause and effect so that the ramifications of decision making can be understood in terms of its collateral implications and consequences. Peter Schwartz encapsulated the process with the provocative title of his book: The art of the Long View.68 The precise methods associated with scenario generation are numerous and the method employed normally contingent on the intended purpose. Angela Wilkinson and Esther Eidinow, for example, suggest that scenario generation falls into four discrete categories: identified objectives, known constitutive / environmental elements; formally mapped trajectories; scenarios generated. 2. Inductive Method: Development of a series of scenarios from an assemblage of a series of possible events. 3. Incremental Approach: Develops images and maps and describes an “official future”—or the one the organization thinks most likely to emerge, and then develops scenarios on the basis of decisions and how they will interact with the “official future” and their possible consequences and effects. 4. Normative Approach: Starts with a set of characteristics of assumed conditions, or a scenario framed in a forward time horizon, and works backwards to see what it requires (decisions, events, processes, attributes) to get there and if this is feasible.69 Peter Schwartz suggested that just as novels have themes which provide continuity, logical connections, and thus a central narrative enabling interpretation and assessment, scenarios too need a theme. But what? Schwartz suggested several themes; challenge and response, for example: “Perhaps London’s position as a centre for financial services is challenged by Frankfurt or Tokyo; what are the drivers and uncertainties which will affect the viability of a strategic response?” Other themes suggested included winners and losers or infinite possibility. The theme is not important per se, but a tool providing a catalyst or fulcrum via which to stress test the assumptions, the logicality of outcomes, the implications of strategic decisions and the risks and opportunities that might present. As with other third generation approaches, scenario analysis is not a panacea, offering both insights but also displaying limitations. It embraces lateral creative thinking and challenges organizations (commercial, non-commercial and state based) to think about alternative futures or events otherwise not anticipated. To the extent that it is able to do this successfully, it has obvious advantages for contingency planning, risk identification, mitigation planning and risk avoidance. It thus helps various commercial, state and non-commercial actors to navigate uncertainty and risk environments rather than stumble upon them without due thought to management and response. The normal caveats about such approaches apply, however: the quality of the analysis is directly proportionate to the quality of the analysts; interpretative discretion if not managed and appropriately tested and checked, can derail the construction of quality scenarios and their utility.

#### Shifting away from the security framework causes conflict and causes intervention –

McCormack 10

[Tara McCormack, ’10, is Lecturer in International Politics at the University of Leicester and has a PhD in International Relations from the University of Westminster. 2010, (Critique, Security and Power: The political limits to emancipatory approaches, page 59-61)]

A corollary of this retreat from a political interpretation of conflict or social instability, is the delegitimation of social transformation in developing countries. Historically, social and political transformation has often been accompanied by war and strife. By pathologising conflict, the human security framework acts to prohibit social or political transformation, as such changes can only be understood in an entirely negative way (see for further discussion, Cramer 2006). As an important contributor to the human security framework has argued: ‘much human insecurity surely results from structural factors and the distribution of power, which are essentially beyond the reach of individuals’ (Newman, 2004b: 358). Thus to actually overcome human insecurity, collective action and change is needed. But this **may result in** **internal conflict or strife**, **precisely the changes that human security problematises in the first place**. People may be prepared to experience disruptions to their daily existence, or even severe societal conflict or economic deprivation in the pursuit of some other goals which are understood as worthy. The shift away from the pluralist security framework is **highly problematic**. The formal links between the state and its citizens are problematised and weak and failing states are potentially held up to increased international scrutiny and international intervention. International institutions and states have potentially greater freedom to intervene in other states, but with no reciprocal methods of control to replace the old political links between the state and its citizens which are weakened. The shift away from the pluralist security framework and the rhetorical adoption by international institutions and states of a more cosmopolitan security framework **does not challenge contemporary power inequalities, rather it serves to entrench them**. Once we separate rights from any rights bearing subject, these rights are only things that can be given by external agencies, indeed as Chandler (2009) has argued, here the subject is created by external powers. Ultimately the cosmopolitan and emancipatory framework which seeks to give universal human rights through international law or forms of intervention posits abstract rights, seeking to make the world conform to universal human rights and justice in the absence of a political constituency to give it content. Indeed this is seen as necessary in the face of the current global injustices. Yet the problem is that **without a political constituency to give content to those rights these rights are gifts of the powerful, they are closer to charity**. **Rights in themselves, without political form, are of little value**. Here rights are assumed to be able to correct political and economic and social wrongs, such as inequality or disempowerment. Yet such problems are not the result of a lack of rights, and cannot be corrected through rights. A lack of development is a political, economic and social problem (Lewis, 1998; Heartfield, 1996), the lack of rights or equality and empowerment stem from the real inequalities and power relations in the world. Divorcing rights from rights bearing subjects, and positing abstract individual rights that can only be ‘given’ by external agencies, does not enhance rights but ends up formalising real inequality (Lewis, 1998). Indeed, this is precisely what we can see with, for example, human security and contemporary interventions. Here, the old formal equality of the pluralist security framework is no longer relevant and it is increasingly accepted that more powerful states have a right to intervene in other states and to frame certain states as ‘outlaw states’ (Simpson, 2005). Conclusion In this chapter I have argued that there have been significant shifts in the post-Cold War security problematic which cannot be understood in terms of the pluralist security framework. The most striking aspect of the contemporary international security problematic seems to be a shift away from and problematisation of the old security framework in both international and national security policy discourse. I have already discussed that the pluralist security framework with its underlying commitments of non-intervention and sovereign equality is held to be both anachronistic and immoral. This chapter lends support to broadening the initial conclusions drawn about the critical security theory more generally. In their own terms critical security theorists do not seem to be very critical. Critical security theorists **are not** **critically engaging and explaining the contemporary security problematic and offering an alternative** to contemporary power inequalities. A critical question to ask would be why have international institutions and states framed their security policies in terms of a rejection of the pluralist security framework and taken up cosmopolitan rhetoric? Where does this shift come from? Despite their ostensible focus on power and power inequalities, it is striking that critical security theorists exclude the way in which power is being exercised in the post-Cold War international order from their analysis. Were critical security theorists to include this in their analysis they would discover that they seem to be sharing many of the assumptions and aims of the post-Cold War international order. Specifically in the context of the shifting international security problematic, critical security theorists seem to share a normative and ethical critique of the old security framework, combined with a depoliticised account of conflict and social, economic and political instability, and a depoliticised and idealised view of the potential of major international institutions and states to intervene. Moreover, in the behaviour and rhetoric of international institutions, the problematic theoretical implications of critical security theory’s idealised assumptions of the potential of international institutions or transnational organisations to be a force for emancipation and freedom for individuals is shown to be problematic in practice. I have argued that this rejection of the pluralist security framework does not challenge the status quo, but serves to further entrench power inequalities. In fact, it seems to reflect the increased freedom of the international community to intervene in other state

### Impact

#### Newest developments take out all impact defense

Jordans, 2011

[Frank, Associated Press, 12-7-11, Clinton warns of bioweapon threat from gene tech, http://www.nbcnews.com/id/45584359/ns/#.UkkMV2T72Ik] /Wyo-MB

GENEVA — New gene assembly technology that offers great benefits for scientific research could also be used by terrorists to create biological weapons, U.S. Secretary of State Hillary Rodham Clinton warned Wednesday.¶ The threat from bioweapons has drawn little attention in recent years, as governments focused more on the risk of nuclear weapons proliferation to countries such as Iran and North Korea.¶ But experts have warned that the increasing ease with which bioweapons can be created might be used by terror groups to develop and spread new diseases that could mimic the effects of the fictional global epidemic portrayed in the Hollywood thriller "Contagion."¶ Speaking at an international meeting in Geneva aimed at reviewing the 1972 Biological Weapons Convention, Clinton told diplomats that the challenge was to maximize the benefits of scientific research and minimize the risks that it could be used for harm.¶ "The emerging gene synthesis industry is making genetic material more widely available," she said. "This has many benefits for research, but it could also potentially be used to assemble the components of a deadly organism."¶ Gene synthesis allows genetic material — the building blocks of all organisms — to be artificially assembled in the lab, greatly speeding up the creation of artificial viruses and bacteria.¶ The U.S. government has cited efforts by terrorist networks such as al-Qaeda to recruit scientists capable of making biological weapons as a national security concern.¶ Advertise¶ "A crude but effective terrorist weapon can be made using a small sample of any number of widely available pathogens, inexpensive equipment, and college-level chemistry and biology," Clinton told the meeting.¶ "Less than a year ago, al-Qaeda in the Arabian Peninsula made a call to arms for, and I quote, 'brothers with degrees in microbiology or chemistry ... to develop a weapon of mass destruction,'" she said.¶ Clinton also mentioned the Aum Shinrikyo cult's attempts in Japan to obtain anthrax in the 1990s, and the 2001 anthrax attacks in the United States that killed five people.¶ Washington has urged countries to be more transparent about their efforts to clamp down on the threat of bioweapons. But U.S. officials have also resisted calls for an international verification system — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities.

#### Second, Predictions of terrorism are true- their critique replicates the logic preceding the attacks on Britain

**Jones ‘6** (The commentariat and discourse failure: language and atrocity in Cool Britannia International Aff airs 82: 6 (2006) 1077–1100 © 2006 The Author(s). Journal Compilation © 2006 Blackwell Publishing Ltd/The Royal Institute of International Aff airs DAVID MARTIN JONES AND M. L. R. SMITH )

Rather than accept the existence of a clear and present Islamist threat to western secularism and democracy after the 9/11 attacks, such critical thinking moved the discursive goal posts. **Critical thinkers and opinionators argued instead that western governments deliberately exaggerated the threat** to curtail legitimate dissent and civil liberties.46 In his bestselling book Dude, Where’s My Country? Michael Moore popularized this view, maintaining: ‘There is no terrorist threat. Why has our government gone to such absurd lengths to convince us our lives are in danger? The answer is nothing short of their feverish desire to rule the world, fi rst by controlling us, and then, in turn, getting us to support their eff orts to dominate the rest of the planet.’47 More measured academic commentary termed the propensity of liberal democratic governments to exaggerate the terrorist threat the ‘politics of fear’. Governments, they maintained, conjured the spectre of Islam and catastrophic terror attacks for illiberal purposes. The politics of fear persuaded the gullible masses to accept an illegitimate extension of state power under the rubric of counterterror policy. These measures eroded personal freedoms and restricted civil liberty. The UK government proposals to introduce identity cards, extend detention of terrorist suspects without trial and curtail expression of views calculated to infl ame racial hatred crystallized the new authoritarianism. The politics of fear also facilitated a contentious foreign policy legitimating the 2003 invasion of Iraq, on the grounds of necessary pre-emptive military action against all potential sources of threat and instability.48 Critics thus maintained that ‘Islamist terror’ constituted an all-purpose political bogeyman. Media commentary reinforced the politics of fear hypothesis. ‘So, a climate of fear it is,’ declared Jackie Ashley in the Guardian in March 2004: ‘Everywhere you turn, there is another gray-faced public fi gure telling you that a major terrorist attack is coming … and there is nothing we can do except trust our leaders.’49 In a similar, but academic, vein, security analyst Bill Durodié declared that ‘Insecurity is the key driving concept of our times. Politicians have packaged themselves as risk managers’ in order to pacify ‘a demand from below for protection’.50 The BBC series The Power of Nightmares, screened in the United Kingdom in early 2005, encapsulated this critical understanding for a wider audience.51 Advertising the series, the BBC News website in April 2005 announced: ‘The Power of Nightmares explores how the idea that we are threatened by a hidden and organized network is an illusion. It is a myth that has spread unquestioned through politics, the security services and the international media.’ Pre-publicity presented the threat as a ‘fantasy’ which ‘politicians then found restored their power and authority in a disillusioned age’, and argued somewhat mysteriously: ‘Those with the darkest fears became the most powerful.’52 If before 7/7 the politics of fear increasingly influenced mainstream media commentary, it also dominated UK and US campuses. The Guardian, sampling informed opinion prior to the screening of The Power of Nightmares, confi rmed the orthodoxy that the security bureaucracy and politicians constructed terrorism in order to pursue the politics of fear and repression.53 Adam Roberts, Professor of International Relations at Oxford University, observed that for governments the terror threat is of ‘absolute cosmic signifi cance’, legitimating an ‘anything goes’ attitude towards its defeat. For the historian Linda Colley, ‘States and their rulers expect to monopolise violence, and that is why they react so violently to terrorism.’ Given that there had been only one attack in Europe since 9/11, in Madrid in March 2003, Bill Durodié contended that the ‘reality [of the Al-Qaeda threat to the west] has been essentially a one-off ’.54 Nor was the evolving consensus confi ned to academic and media comment. Such views found support both among members of parliament and from common lawyers. In January 2005 Charles Kennedy, the leader of the Liberal Democrats, Britain’s third largest political party, asserted in his ‘New Year message’: A clear division is emerging in British politics: the politics of fear versus the politics of hope. Labour is counting on the politics of fear, ratcheting up talk of threat, crime and insecurity, while the Conservatives are re-working their populist scares about asylum and the European ‘menace’. Look at how Labour, with the support of the Conservatives, has undermined trust in the political process by its spin and reliance on external threats.55 Suspicion of a government policy based on the politics of fear similarly infl uenced legal decisions with respect to deportation or extradition orders for suspects wanted in third countries for terror-related off ences.56 More particularly, the law lords questioned the government’s authority to detain without trial non-British terror suspects resident in the UK, like Abu Qatada. In December 2004, the highest appellate court found Qatada’s detention illegal. One of the law lords, Lord Bingham, maintained that the government’s powers of detention ‘discriminate on the ground of nationality or immigration status’,57 while Lord Hoff man found that ‘The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these.’58 Those who criticized the government for its political exploitation of the threat, however, failed to recognize that their rejection of the politics of fear was also politically motivated. For the politics of fear itself resulted in highly politicized threat assessments couched in the language of balance, neutrality and concern for an abstract standard of law that transcended short-term political contingencies. Thus, in his judgment on the detention of non-UK citizens, Lord Hoff man argued that ‘fanatical groups’ ‘do not threaten the life of the nation’. He continued: ‘Terrorist crime, serious as it is, does not threaten our institutions of government or our existence as a civil community.’59 Hoff man asserted as constitutional fact what could only be an expression of faith. In an analogous vein, the security analyst Bill Durodié discounted the pretensions of Islamism’s UK franchise. After the conviction of the Algerian Kamel Bourgass in 2005 for murder and conspiracy to commit a public nuisance using poisons and explosives, including ricin, Durodié dismissed Al-Qaeda as a ‘conspiracy of dunces’. Assessing the ‘sheer naivety and incompetence of all these so-called al- Qaeda operatives’ like Bourgass, Richard Reid, the ‘dim-witted shoe bomber who had trouble with matches’, and Sajid Badat, ‘the Gloucester loner who bottled out of emulating Reid’, Durodié asserted: ‘If that is the best of what the supposed massed ranks of al-Qaeda have to off er after three years [i.e. after 9/11] … we should have little to fear. But the media, politicians and the police have sought to portray the situation diff erently.’60 **The London bombs disproved the politics of fear hypothesis and exposed the evaluations of law lords like Hoff man and security analysts like Durodié. The facts, expressed in the toll of civilian lives, demonstrated that the government’s perception had been more acute than that of its critics.** But its detractors portrayed government attempts to counter the threat of terror and heighten the state of public vigilance as an insidious plot to undermine democratic values.**61 As Frank Furedi observed, those who believed in the politics of fear met one conspiratorial claim—that the government was using the threat of Islamic terror to weaken basic freedoms—with a counterconspiracy—that there wasn’t much of a threat to begin** **with**.62 **Hence, the politics of fear determined its own preferred policy response, namely, the practice of complacency. Rather than engaging in a debate about the proportionality of response to a home-grown threat of Islamist terror, those who detected the politics of fear lurking behind every government pronouncement instead presented the security predicament in the very reductionist terms of which they accused those who claimed to be exaggerating the threat**. **In other words, the proponents of the politics of fear played the politics of fear themselves.63** Indeed, the thesis required fear—in this case, fear of a creeping authoritarian dystopia—to sustain it. In this way, a reasonable public policy concern about counterterrorist measures eroding established legal rights rapidly degenerated into a one-dimensional caricature of government policy not far removed from paranoid post-9/11 movies like V for Vendetta (2006). Furthermore, the wider commentariat’s acceptance of the politics of fear had far from trivial consequences. Mainstream politicians, the liberal press, television, academics and the courts gave it wide currency as a more objective response to the post-9/11 environment. Its premise, fear, discounted the threat and denigrated any serious attempt to evaluate the actual character and extent of the problem, asserting, without empirical basis, its more insightful assessment of the situation. Lord Walker, the single dissenting law lord in the 8 to 1 judgment in favour of Qatada in December 2004, expressed the inherent danger contained in this politics of complacency, well before the 7/7 attacks. Walker found that It is certainly not the court’s function to substitute for the British Government’s assessment any other assessment of what might be the most prudent or most expedient policy to combat terrorism. When a state is struggling against a public emergency threatening the life of the nation, it would be rendered defenceless if it were required to accomplish everything at once, to furnish from the outset each of its chosen means of action with each of the safeguards.64 The politics of complacency, by contrast, denied the existence of a ‘public emergency’. To the extent that a threat existed, it was attributed largely to government exploitation and overreaction, which had constructed a Muslim out-group.65 Consequently, for the West, the Islamist threat was an ‘enemy of its own making’.66 The rhetoric in response to both the 7/7 attacks and the subsequent revelation of plots and conspiracies in London refl ects a strategic misunderstanding that confuses limited tactical ability with limited political goals. The semantic laxity that informed discussion of the terrorist threat reinforced this misconception. Terrorism is a tactic practised as part of a strategy in war, but it is not a material phenomenon in itself. **The lax terminology and distorted meanings attached to the phenomenon created the epistemological foundations of discourse failure.** This failure enabled Islamist extremists to exploit the fault-lines in liberal, multicultural societies like Britain, which tolerated or ignored their evolving global campaign to engineer an apocalyptic confrontation with secular modernity. Prior to July 2005, the British authorities recognized only one theatre of the ‘war against terrorism’, which required confronting the Islamist threat externally. Yet since 9/11 Al-Qaeda has rapidly mutated, evolving **via the Internet a largely home-grown jihadist strategy to infi ltrate and attack the cosmopolitan western cityscape. A coherent response therefore demands the pursuit of a far more vigorous strategy at home**. In particular, it requires abandoning the prevailing view that the domestic threat is best prosecuted as a criminal conspiracy. **It demands instead a total strategy to deal with a totalizing threat**. **This means recognizing that there is an existential threat,** unencumbered by the politics of fear, root causes and denial that for too long has impeded its eff ective prosecution. An adequate strategy requires, moreover, a multifaceted response that goes beyond law enforcement. This does not mean imposing arbitrary regimes of detention without trial. What it does require, however, is enhanced means of intelligence-gathering, both technical and human, together with a coherent set of government policies addressing education, welfare, asylum, immigration and culture in order to safeguard a sustainable civil association. The **evidence demonstrates the existence of a physical threat, not merely the political fear of a threat**. The implementation of a coherent set of social policies confronting the threat at home recognizes that securing state borders and maintaining internal stability is the fi rst task of responsible government, responsible media and a responsible public education sector, both secondary and tertiary. For **without the basis of security, necessarily premised upon the inculcation of a shared political culture, the conditions for political pluralism and liberal democracy gradually disappear**. This requires a return to the Hobbesian verities of sovereignty, which, despite the illusion of post-Cold War cosmopolitan multiculturalism and the elitist dream of a post-national constellation, represents the only secure basis for liberal democratic order.

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### Link

#### Their moralistic politics that abandons legal suggestions denies responsibility and undermines political change

Jeffrey C. Isaac, James H. Rudy Professor of Political Science and Director of the Center for the Study of Democracy and Public Life at Indiana University, Spring 2002, Dissent, Vol. 49, No. 2

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### They fear to get their hands dirty—fuels disengagement and political change

Issac ‘2 (Jeffery, Professor of Political Science at Indiana University, Dissent, Spring, Vol. 49 No. 2)

Politics is about ends and means--about the values that we pursue and the methods by which we pursue them. In a perfect world, there would be a perfect congruence between ends and means: our ends would always be achievable through means that were fully consistent with them; the tension between ends and means would not exist. But then there would be no need to pursue just ends, for these would already be realized. Such a world of absolute justice lies beyond politics. The left has historically been burdened by the image of such a world. Marx's vision of the "riddle of history solved" and Engels's vision of the "withering away of the state" were two canonical expressions of the belief in an end-state in which perfect justice could be achieved once and for all. But the left has also developed a concurrent tradition of serious strategic thinking about politics. Centered around but not reducible to classical Marxism, this tradition has focused on such questions as the relations of class, party, and state; the consequences of parliamentary versus revolutionary strategies of social change; the problem of hegemony and the limits of mass politics; the role of violence in class struggle; and the relationship between class struggle and war. These questions preoccupied Karl Kautsky, V.I. Lenin, Leon Trotsky, Rosa Luxemburg, Georg Lukàcs, and Antonio Gramsci--and also John Dewey, Arthur Koestler, Ignazio Silone, George Orwell, Maurice Merleau-Ponty, Jean-Paul Sartre, and Albert Camus. The history of left political thought in the twentieth century is a history of serious arguments about ends and means in politics, arguments about how to pursue the difficult work of achieving social justice in an unjust world. Many of these arguments were foolish, many of their conclusions were specious, and many of the actions followed from them were barbaric. The problem of ends and means in politics was often handled poorly, but it was nonetheless taken seriously, even if so many on the left failed to think clearly about the proper relationship between their perfectionist visions and their often Machiavellian strategies. What is striking about much of the political discussion on the left today is its failure to engage this earlier tradition of argument. The left, particularly the campus left--by which I mean "progressive" faculty and student groups, often centered around labor solidarity organizations and campus Green affiliates--has become moralistic rather than politically serious. Some of its moralizing--about Chiapas, Palestine, and Iraq--continues the third worldism that plagued the New Left in its waning years. Some of it--about globalization and sweat-shops--is new and in some ways promising (see my "Thinking About the Antisweatshop Movement," Dissent, Fall 2001). But what characterizes much campus left discourse is a substitution of moral rhetoric about evil policies or institutions for a sober consideration of what might improve or replace them, how the improvement might be achieved, and what the likely costs, as well as the benefits, are of any reasonable strategy. One consequence of this tendency is a failure to worry about methods of securing political support through democratic means or to recognize the distinctive value of democracy itself. It is not that conspiratorial or antidemocratic means are promoted. On the contrary, the means employed tend to be preeminently democratic--petitions, demonstrations, marches, boycotts, corporate campaigns, vigorous public criticism. And it is not that political democracy is derided. Projects such as the Green Party engage with electoral politics, locally and nationally, in order to win public office and achieve political objectives. But what is absent is a sober reckoning with the preoccupations and opinions of the vast majority of Americans, who are not drawn to vocal denunciations of the International Monetary Fund and World Trade Organization and who do not believe that the discourse of "anti-imperialism" speaks to their lives. Equally absent is critical thinking about why citizens of liberal democratic states--including most workers and the poor--value liberal democracy and subscribe to what Jürgen Habermas has called "constitutional patriotism": a patriotic identification with the democratic state because of the civil, political, and social rights it defends. Vicarious identifications with Subcommandante Marcos or starving Iraqi children allow left activists to express a genuine solidarity with the oppressed elsewhere that is surely legitimate in a globalizing age. But these symbolic avowals are not an effective way of contending for political influence or power in the society in which these activists live. The ease with which the campus left responded to September 11 by rehearsing an all too- familiar narrative of American militarism and imperialism is not simply disturbing. It is a sign of this left’s alienation from the society in which it operates (the worst examples of this are statements of the Student Peace Action Coalition Network, which declare that “the United States Government is the world’s greatest terror organization,” and suggest that “homicidal psychopaths of the United States Government” engineered the World Trade Center attacks as a pretext for imperialist aggression. See http://www.gospan.org). Many left activists seem more able to identify with (idealized versions of) Iraqi or Afghan civilians than with American citizens, whether these are the people who perished in the Twin Towers or the rest of us who legitimately fear that we might be next. This is not because of any “disloyalty.” Charges like that lack intellectual or political merit. It is because of a debilitating moralism; because it is easier to denounce wrong than to take real responsibility for correcting it, easier to locate and to oppose a remote evil than to address a proximate difficulty. The campus left says what it thinks. But it exhibits little interest in how and why so many Americans think differently. The “peace” demonstrations organized across the country within a few days of the September 11 attacks—in which local Green Party activists often played a crucial role—were, whatever else they were, a sign of their organizers’ lack of judgment and common sense. Although they often expressed genuine horror about the terrorism, they focused their energy not on the legitimate fear and outrage of American citizens but rather on the evils of the American government and its widely supported response to the terror. Hardly anyone was paying attention, but they alienated anyone who was. This was utterly predictable. And that is my point. The predictable consequences did not matter. What mattered was simply the expression of righteous indignation about what is wrong with the United States, as if September 11 hadn’t really happened. Whatever one thinks about America’s deficiencies, it must be acknowledged that a political praxis preoccupation with this is foolish and self-defeating. The other, more serious consequence of this moralizing tendency is the failure to think seriously about global politics. The campus left is rightly interested in the ills of global capitalism. But politically it seems limited to two options: expressions of “solidarity” with certain oppressed groups—Palestinians but not Syrians, Afghan civilians (though not those who welcome liberation from the Taliban), but not Bosnians or Kosovars or Rwandans—and automatic opposition to American foreign policy in the name of anti-imperialism. The economic discourse of the campus left is a universalist discourse of human needs and workers rights; but it is accompanied by a refusal to think in political terms about the realities of states, international institutions, violence, and power. This refusal is linked to a peculiar strain of pacifism, according to which any use of military force by the United States is viewed as aggression or militarism. A case in point is a petition circulated on the campus of Indiana University within days of September 11. Drafted by the Bloomington Peace Coalition, it opposed what was then an imminent war in Afghanistan against al-Qaeda, and called for peace. It declared: “Retaliation will not lead to healing; rather it will harm innocent people and further the cycle of violence. Rather than engage in military aggression, those in authority should apprehend and charge those individuals believed to be directly responsible for the attacks and try them in a court of law in accordance with due process of international law.” This declaration was hardly unique. Similar statements were issued on college campuses across the country, by local student or faculty coalitions, the national Campus Greens, 9- 11peace.org, and the National Youth and Student Peace Coalition. As Global Exchange declared in its antiwar statement of September 11: “vengeance offers no relief. . . retaliation can never guarantee healing. . . and to meet violence with violence breeds more rage and more senseless deaths. Only love leads to peace with justice, while hate takes us toward war and injustice.” On this view military action of any kind is figured as “aggression” or “vengeance”; harm to innocents, whether substantial or marginal, intended or unintended, is absolutely proscribed; legality is treated as having its own force, independent of any means of enforcement; and, most revealingly, “healing” is treated as the principal goal of any legitimate response. None of these points withstands serious scrutiny. A military response to terrorist aggression is not in any obvious sense an act of aggression, unless any military response—or at least any U.S. military response—is simply defined as aggression. While any justifiable military response should certainly be governed by just-war principles, the criterion of absolute harm avoidance would rule out the possibility of any military response. It is virtually impossible either to “apprehend” and prosecute terrorists or to put an end to terrorist networks without the use of military force, for the “criminals” in question are not law-abiding citizens but mass murderers, and there are no police to “arrest” them. And, finally, while “healing” is surely a legitimate moral goal, it is not clear that it is a political goal. Justice, however, most assuredly is a political goal. The most notable thing about the Bloomington statement is its avoidance of political justice. Like many antiwar texts, it calls for “social justice abroad.” It supports redistributing wealth. But criminal and retributive justice, protection against terrorist violence, or the political enforcement of the minimal conditions of global civility—these are unmentioned. They are unmentioned because to broach them is to enter a terrain that the campus left is unwilling to enter—the terrain of violence, a realm of complex choices and dirty hands. This aversion to violence is understandable and in some ways laudable. America’s use of violence has caused much harm in the world, from Southeast Asia to Central and Latin America to Africa. The so-called “Vietnam Syndrome” was the product of a real learning experience that should not be forgotten. In addition, the destructive capacities of modern warfare— which jeopardize the civilian/combatant distinction, and introduce the possibility of enormous ecological devastation—make war under any circumstances something to be feared. No civilized person should approach the topic of war with anything other than great trepidation.