# 1nc

## 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).

#### War powers is Defined by the Constitution

Black’s Law Dictionary, 1999

(7th Edition, p. 1578-9)

"War Power" is defined as "[the constitutional authority of Congress to declare war and maintain armed forces (U.S. Const. art. I, § 8, cls. 11-14), and of the President to conduct war as commander-in-chief (U.S. Const. art. II, § 2, cl. 1)."

#### 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 affirmatives efforts at equality and justice are a clever ruse of the majority – this form of narcissistic hegemony guarantees the continuation of discrimination – the extension of the gift only strengthens the powers that be

Arrigo and Williams ‘2K

[Arrigo, Bruce and Williams, Christopher, California School of Professional Psychology), 2K “PHILOSOPHY OF THE GIFT AND THE PSYCHOLOGY OF ADVOCACY: CRITICAL REFLECTIONS ON FORENSIC MENTAL HEALTH INTERVENTION.” International Journal for the Semiotics of Law, 2000. <<http://www.springerlink.com/content/v083155n8l118j06/fulltext.pdf>>//wyo-hdm]

The impediments to establishing democratic justice in contemporary American society have caused a national paralysis; one that has recklessly spawned an aporetic1 existence for minorities.2 The entrenched ideological complexities afflicting under- and nonrepresented groups (e.g., poverty, unemployment, illiteracy, crime) at the hands of political, legal, cultural, and economic power elites have produced counterfeit, perhaps even fraudulent, efforts at reform: Discrimination and inequality in opportunity prevail (e.g., Lynch & Patterson, 1996). The misguided and futile initiatives of the state, in pursuit of transcending this public affairs crisis, have fostered a reification, that is, a reinforcement of divisiveness. This time, however, minority groups compete with one another for recognition, affirmation, and identity in the national collective psyche (Rosenfeld, 1993). What ensues by way of state effort, though, is a contemporaneous sense of equality for all and a near imperceptible endorsement of inequality; a silent conviction that the majority3 still retains power.4 The “gift” of equality, procured through state legislative enactments as an emblem of democratic justice, embodies true (legitimated) power that remains nervously secure in the hands of the majority.5 The ostensible empowerment of minority groups is a facade; it is the ruse of the majority gift. What exists, in fact, is a simulacrum (Baudrillard, 1981, 1983) of equality (and by extension, democratic justice): a pseudo-sign image (a hypertext or simulation) of real sociopolitical progress. For the future relationship between equality and the social to more fully embrace minority sensibilities, calculated legal reform efforts in the name of equality must be displaced and the rule and authority of the status quo must be decentered. Imaginable, calculable equality is self-limiting and self-referential. Ultimately, it is always (at least) one step removed from true equality and, therefore, true justice.6 The ruse of the majority gift currently operates under the assumption of a presumed empowerment, which it confers on minority populations. Yet, the presented power is itself circumscribed by the stifling horizons of majority rule with their effects. Thus, the gift can only be construed as falsely eudemonic: An avaricious, although insatiable, pursuit of narcissistic legitimacy supporting majority directives. The commission (bestowal) of power to minority groups or citizens through prevailing state reformatory efforts underscores a polemic with implications for public affairs and civic life. We contend that the avenir (i.e., the “to come”) of equality as an (in)calculable, (un)recognizable destination in search of democratic justice is needed. However, we argue that this displacement of equality is unattainable if prevailing juridico-ethicopolitical conditions (and societal consciousness pertaining to them) remain fixed, stagnant, and immutable. In this article, we will demonstrate how the gift of the majority is problematic, producing, as it must, a narcissistic hegemony, that is, a sustained empowering of the privileged, a constant relegitimation of the powerful.7 Relying on Derrida’s postmodern critique of Eurocentric logic and thought, we will show how complicated and fragmented the question of establishing democratic justice is in Western cultures, especially in American society. We will argue that what is needed is a relocation of the debate about justice and difference from the circumscribed boundaries of legal redistributive discourse on equality to the more encompassing context of alterity, undecidability, cultural plurality, and affirmative postmodern thought.

#### Discussion of community building only further alienates those around us- by prescribing the enclosure of a common group someone is left out further inscribing the us/them dichotomy

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Society and its institutions are analogical to Derrida’s notion of community. Derrida, however, asserts an aversion to the word community as well as to the thing itself. His primary concern for the word relates to its connotations of fusion and identification (Weber, 1995). Caputo (1997) elucidates these meanings with reference to Derrida’s etymological examination of community. Communio is a word for military formation and a kissing cousin of the word “munitions”: to have a communio is to be fortified on all sides, to build a “common” (com) “defense” (munis), as when a wall is put up around the city to keep the stranger or the foreigner out. The self-protective closure of “community,” then, would be just about the opposite of . . . preparation for the incoming of the other, “open” and “porous” to the other. . . . A “universal community” excluding no one is a contradiction in terms; communities always have an inside and an outside. (p. 108) Thus, the word community has negative connotations suggesting injustice, inequality, and an “us” versus “them” orientation. Community, as a thing, would constitute a binary opposition with the aforementioned concept of democratic society. The latter evolves with, not against, the other. Although the connotations may be latent and unconscious, any reference to a community or a derivative thereof connotes the exclusion of some other. A democratic society, then, must reject the analogical conceptions of community and present itself as a receptacle for receiving difference, that is, the demos (the people) representing a democratic society.

#### Oppression and the logic of inferiority causes self-inflicted violence and discrimination

Khan 94 (Ali Khan, Law Professor 3at Washburn University school of Law, “Lessons from Malcolm X: Freedom by Any Means Necessary,” 38, Howard Law Journal 81, http://heinonline.org/HOL/Page?handle=hein.journals/howlj38&id=89&type=text&collection=journals)

The second aspect of oppression is a systematic assault on the inherent human dignity of the oppressed.46 Dehumanization of the oppressed and lack of control over basic decisions in life work in tandem and are inseverable attributes of oppression. The oppressors create, defend, and reinforce social assumptions which portray the oppressed as inferior human beings lacking intelligence, virtue, and social skills.47 This attack on the human dignity of the oppressed is made to defend an uneven and unfair distribution of social goods, economic benefits, political power, and constitutional values.' By alleging the inherent inferiority of the oppressed,49 the oppressors can claim, without guilt, a superior position in the social hierarchy.50 Such an assault on human dignity has a devastating effect on the oppressed. According to Malcolm, the oppressors begin to control the minds of the oppressed,5" and the oppressed begin to think about themselves just as the oppressors characterize them.52 Consequently, the oppressed internalize self-hatred manifested by hating their skin, hating their caste, hating their language, hating their religion, and indeed hating who they are and what they are.53 This hatred leads the oppressed to turn upon themselves blaming their own kind, and killing their own children, brothers, and sisters,54 as if it is their own race, their own caste, their own religion, and their own community had trapped them and brought them down.55 Thus, deep and enduring marks of inferiority and degradation eliminate the dignity of the entire group.

#### The alt is to reject the false benevolence of the affirmative- rejection is key to inquiry about the unconscious influences behind their methodology

Arrigo and Williams ‘2K

[Arrigo, Bruce and Williams, Christopher, California School of Professional Psychology, 2K “PHILOSOPHY OF THE GIFT AND THE PSYCHOLOGY OF ADVOCACY: CRITICAL REFLECTIONS ON FORENSIC MENTAL HEALTH INTERVENTION.” International Journal for the Semiotics of Law, 2000. <<http://www.springerlink.com/content/v083155n8l118j06/fulltext.pdf>>//wyo-hdm]

CONCLUSION: PURIFYING THE GIFT OF ADVOCACY?¶ Psychological egoism – the inevitability of acting from self-interest –¶ is appreciable in our charitable, gift-giving actions. Behaviors that we¶ might regard as altruistic interventions are motivated, in part, not by pure¶ compassion or selflessness but, rather, by concerns of the self. This logic¶ resonates in the work of Hobbes and is given further attention in the¶ philosophy of Emerson, Nietzsche, Derrida, and Lacan. Pity, as Hobbes¶ describes it, is no less than a person’s identification with another; an identification¶ that, centuries later, Lacan would describe in terms of the imago¶ or Imaginary Order of subjectivity. We do not feel compassion for those¶ who suffer. Rather, we feel ourselves in the other and the other in us and¶ our compassion emerges accordingly.We are all prone to such unconscious¶ influences. Indeed, Lacanian ego development demonstrates that our own¶ desires are intertwined with those of others, notwithstanding our need for¶ differentiation. Our interactions with others, then, including gift-giving¶ behaviors (e.g., advocacy), are unconsciously impacted by these dialectical¶ pushes and pulls.¶ This article questioned the possibility of virtuous giving by appealing¶ to the philosophy of the gift and the psychology of advocacy.We suggested¶ that both conscious and, more significantly, unconscious motivations affect¶ the quality and value of such assistance-based actions. The genuine gift of¶ advocacy entails articulating the unencumbered desire of the other (i.e.,¶ client/patient); that is, presenting the interests of the mental health citizen¶ absent transfiguration by the imago process. However, we noted that reflections¶ are only perceivable in a mutated form or distilled fashion. The¶ metaphor of the mirror presents us with a similar concern, given the award¶ of advocacy. Indeed, we doubt that the interests of the patient can ever be¶ (re)articulated fully such that the desire of the client finds true expression¶ and legitimate voice. The advocate can only incompletely re-present the¶ client’s desires. To this degree, then, the empathic identification between¶ self (advocate) and other (client) is a hindrance to effective assistance.¶ The pure gift of advocacy is an (im)possibility. It is an award subject to¶ multifarious and overlapping desires.¶ We note that compassion is a part of being human. Thus, it is not our¶ intent to undermine this conviction or to contaminate humanistic sentiments¶ with cynical commentary. However, given our analysis, the question¶ of advocating on behalf of the mentally ill; that is, speaking for the psychiatric¶ citizen, presents society with a vexing problem. Such efforts, in¶ theory, are appealing but the self-other conflation inherent in the process¶ further marginalizes, victimizes and alienates persons with psychiatric¶ disorders.¶ Similar to a Derridean aporia, the value of the gift is in the search¶ for a way outside of it (while within it), as impossible as it may, at¶ first, appear. The perspective we outlined has meaning not so much in its¶ ability to induce apathy or dispel confidence but, rather, in the hope of¶ establishing a more just, more humane world. Thus, we submit that our¶ philosophical and semiotical investigation of forensic mental health intervention¶ provocatively suggests the need for further critical inquiry. Indeed,¶ we acknowledge the (im)possibility of the gift of mental health advocacy¶ while simultaneously encouraging future theoretical work that moves us in¶ a more meaningful direction for disordered citizens, particularly in relation¶ to their advocates and the psycholegal community of which they are a part.¶ This is a challenge that awaits if psychiatric justice is to be realized.

## 3

#### The silence of the aff on the question of how colonialism produced and conditioned politics condemns their project to reifying colonialism- the call to come before decolonization bases the aff’s moral system on the continued benefit of genocidal occupation AND it’s a sequencing question- identity must FIRST be informed by the historical, material, and fixed realities of the Native subject

Morgensen 2010

[Morgensen, Scott, 2k10, GLQ: A Journal of Lesbian and Gay Studies, Volume 16, Number 1-2, “Settler Homonationalism: Theorizing Settler Colonialism within Queer Modernities, 2010.]

Denaturalizing settler colonialism will mark it as not a fait accompli but a process open to change. While settlement suggests the appropriation of land, that history was never fixed: even the violence of allotment failed to erase collective Native land claims, just as land expropriation is being countered by tribal governments reacquiring sovereign land. In turn, as Thomas King and Paul Carter suggest, settlement narrates the land, and, as storytelling, it remains open to debate, End Page 122 such as in Native activisms that sustain Indigenous narratives of land or tell new stories to denaturalize settler landscapes. The processes of settler colonialism produce contradictions, as settlers try to contain or erase Native difference in order that they may inhabit Native land as if it were their own. Doing so produces the contortions described by Deloria, as settler subjects argue that Native people or their land claims never existed, no longer exist, or if they do are trumped by the priority of settler claims. Yet at the same time settler subjects study Native history so that they may absorb it as their own and legitimate their place on stolen land. These contradictions are informed by the knowledge, constantly displaced, of the genocidal histories of occupation. Working to stabilize settler subjectivity produces the bizarre result of people admitting to histories of terrorizing violence while basing their moral systems on continuing to benefit from them.

The difference between conservative and liberal positions on settlement often breaks between whether non-Natives feel morally justified or conscionably implicated in a society based on violence. But while the first position embraces the status quo, the second does nothing necessarily to change it. As Smith pointedly argues, "It is a consistent practice among progressives to bemoan the genocide of Native peoples, but in the interest of political expediency, implicitly sanction it by refusing to question the illegitimacy of the settler nation responsible for this genocide." In writing with Kehaulani Kauanui, Smith argues that this complicity continues, as progressives have critiqued the seeming erosion of civil liberties and democracy under the Bush regime. How is this critique affected if we understand the Bush regime not as the erosion of U.S. democracy but as its fulfillment? If we understand American democracy as predicated on the genocide of indigenous people? . . . Even scholars critical of the nation-state often tend to presume that the United States will always exist, and thus they overlook indigenous feminist articulations of alternative forms of governance beyond the United States in particular and the nation-state in general. Smith and Kauanui remind us here that Indigenous feminists crucially theorize life beyond settler colonialism, including by fostering terms for national community that exceed the heteropatriarchal nation-state form. Non-Natives who seek accountable alliance with Native people may align themselves with these stakes if they wish to commit to denaturalizing settler colonialism. But as noted, their more frequent effort to stabilize their identities follows less from a belief that settlement is natural than from a compulsion to foreclose the Pandora's box of contradictions End Page 123 they know will open by calling it into question. In U.S. queer politics, this includes the implications of my essay: queers will invoke and repeat the terrorizing histories of settler colonialism if these remain obscured behind normatively white and national desires for Native roots and settler citizenship. A first step for non-Native queers thus can be to examine critically and challenge how settler colonialism conditions their lives, as a step toward imagining new and decolonial sexual subjectivities, cultures, and politics. This work can be inspired by historical coalition politics formed by queers of color in accountable relationship to Native queer activists. Yet this work invites even more forms, particularly when Native queers choose to organize apart. White queers challenging racism and colonialism can join queers of color to create new queer politics marked explicitly as non-Native, in that they will form by answering Native queer critiques. As part of that work, non-Native queers can study the colonial histories they differently yet mutually inherit, and can trouble the colonial institutions in which they have sought their freedom, as steps toward shifting non-Native queer politics in decolonizing directions.

#### Rejecting Identity is based on western conceptions of individual freedom that ignore the way that Indigenous peoples form their identity ties with the land, causes same forms of colonial domination

Sandy Grande. “American Indian Geographies of Power: At the Crossroads of Indigena and Mestizaje.” Harvard Educational Review, 70:4. Winter 2000.

In addition, the undercurrent of fluidity and sense of displacedness that permeates, if not defines, mestizaje runs contrary to American Indian sensibilities of connection to place, land, and the Earth itself. Consider, for example, the following statement on the nature of critical subjectivity by Peter McLaren: The struggle for critical subjectivity is the struggle to occupy a space of hope - a liminal space, an intimation of the anti-structure, of what lives in the in-between zone of undecidedability - in which one can work toward a praxis of redemption .... A sense of atopy has always been with me, a resplendent placelessness, a feeling of living in germinal formlessness .... I cannot find words to express what this border identity means to me. All I have are what Georgres Bastille (1988) calls mots glissants (slippery words). (1997, pp. 13-14) McLaren speaks passionately and directly about the crisis of modern society and the need for a "praxis of redemption." As he perceives it, the very possibility of redemption is situated in our willingness not only to accept but to flourish in the "liminal" spaces, border identities, and postcolonial hybridities that are inherent in postmodern life and subjectivity. In fact, McLaren perceives the fostering of a "resplendent placelessness" itself as the gateway to a more just, democratic society. While American Indian intellectuals also seek to embrace the notion of transcendent subjectivities, they seek a notion of transcendence that remains rooted in historical place and the sacred connection to land. Consider, for example, the following commentary by Deloria (1992) on the centrality of place and land in the construction of American Indian subjectivity: Recognizing the sacredness of lands on which previous generations have lived and died is the foundation of all other sentiment. Instead of denying this dimension of our emotional lives, we should be setting aside additional places that have transcendent meaning. Sacred sites that higher spiritual powers have chosen for manifestation enable us to focus our concerns on the specific form of our lives.... Sacred places are the foundation of all other beliefs and practices because they represent the presence of the sacred in our lives. They properly inform us that we are not larger than nature and that we have responsibilities to the rest of the natural world that transcend our own personal desires and wishes. This lesson must be learned by each generation. (pp. 278, 281) Gross misunderstanding of this connection between American Indian subjectivity and land, and, more importantly, between sovereignty and land has been the source of numerous injustices in Indian country.

For instance, I believe there was little understanding on the part of government officials that passage of the Indian Religious Freedom Act (1978) would open a Pandora's box of discord over land, setting up an intractable conflict between property rights and religious freedom. American Indians, on the other hand, viewed the act as a invitation to return to their sacred sites, several of which were on government lands and were being damaged by commercial use. As a result, a flurry of lawsuits alleging mismanagement and destruction of sacred sites was filed by numerous tribes. Similarly, corporations, tourists, and even rock climbers filed suits accusing land managers of unlawfully restricting access to public places by implementing policies that violate the constitutional separation between church and state. All of this is to point out that the critical project of mestizaje continues to operate on the same assumption made by the U.S. government in this instance, that in a democratic society, human subjectivity - and liberation for that matter - is conceived of as inherently rightsbased as opposed to land-based.

#### Lack of decolonization results in ongoing genocide, assimilation and annihilation of indigenous peoples and culture- k2 solve all major impacts

Churchill 96 (Ward, Prof. of Ethnic Studies @ U. of Colorado, Boulder BA and MA in Communications from Sangamon State, “From a Native Son”,mb)

I’ll debunk some of this nonsense in a moment, but first I want to take up the posture of self-proclaimed leftist radicals in the same connection. And I’ll do so on the basis of principle, because justice is supposed to matter more to progressives than to rightwing hacks. Let me say that the pervasive and near-total silence of the Left in this connection has been quite illuminating. Non-Indian activists, with only a handful of exceptions, persistently plead that they can’t really take a coherent position on the matter of Indian land rights because “unfortunately,” they’re “not really conversant with the issues” ( as if these were tremendously complex ). Meanwhile, they do virtually nothing, generation after generation, to inform themselves on the topic of who actually owns the ground they’re standing on. The record can be played only so many times before it wears out and becomes just another variation of “hear no evil, see no evil.” At this point, it doesn’t take Albert Einstein to figure out that the Left doesn’t know much about such things because it’s never wanted to know, or that this is so because it’s always had its own plans for utilizing land it has no more right to than does the status quo it claims to oppose. The usual technique for explaining this away has always been a sort of pro forma acknowledgement that Indian land rights are of course “really important stuff” (yawn), but that one” really doesn’t have a lot of time to get into it ( I’ll buy your book, though, and keep it on my shelf, even if I never read it ). Reason? Well, one is just “overwhelmingly preoccupied” with working on “other important issues” (meaning, what they consider to be more important issues). Typically enumerated are sexism, racism, homophobia, class inequities, militarism, the environment, or some combination of these. It’s a pretty good evasion, all in all. Certainly, there’s no denying any of these issues their due; they are all important, obviously so. But more important than the question of land rights? There are some serious problems of primacy and priority imbedded in the orthodox script. To frame things clearly in this regard, lets hypothesize for a moment that all of the various non-Indian movements concentrating on each of these issues were suddenly successful in accomplishing their objectives . Lets imagine that the United States as a whole were somehow transformed into an entity defined by the parity of its race, class, and gender relations, its embrace of unrestricted sexual preference, its rejection of militarism in all forms, and its abiding concern with environmental protection (I know, I know, this is a sheer impossibility, but that’s my point). When all is said and done, the society resulting from this scenario is still, first and foremost, a colonialist society, an imperialist society in the most fundamental sense possible with all that this implies. This is true because the scenario does nothing at all to address the fact that whatever is happening happens on someone else’s land, not only without their consent, but through an adamant disregard for their rights

to the land. Hence, all it means is that the immigrant or invading population has rearranged its affairs in such a way as to make itself more comfortable at the continuing expense of indigenous people. The colonial equation remains intact and may even be reinforced by a greater degree of participation, and vested interest in maintenance of the colonial order among the settler population at large. The dynamic here is not very different from that evident in the American Revolution of the late 18th century, is it? And we all know very well where that led, don’t we? Should we therefore begin to refer to socialist imperialism, feminist imperialism, gay and lesbian imperialism, environmental imperialism, African American, and la Raza imperialism? I would hope not. I would hope this is all just a matter of confusion, of muddled priorities among people who really do mean well and who’d like to do better. If so, then all that is necessary to correct the situation is a basic rethinking of what must be done., and in what order. Here, I’d advance the straightforward premise that the land rights of “First Americans” should serve as a first priority for everyone seriously committed to accomplishing positive change in North America. But before I suggest everyone jump off and adopt this priority, I suppose it’s only fair that I interrogate the converse of the proposition: if making things like class inequity and sexism the preeminent focus of progressive action in North America inevitably perpetuates the internal colonial structure of the United States, does the reverse hold true? I’ll state unequivocally that it does not. There is no indication whatsoever that a restoration of indigenous sovereignty in Indian Country would foster class stratification anywhere, least of all in Indian Country. In fact, all indications are that when left to their own devices, indigenous peoples have consistently organized their societies in the most class-free manners. Look to the example of the Haudenosaunee (Six Nations Iroquois Confederacy). Look to the Muscogee (Creek) Confederacy. Look to the confederations of the Yaqui and the Lakota, and those pursued and nearly perfected by Pontiac and Tecumseh. They represent the very essence of enlightened egalitarianism and democracy. Every imagined example to the contrary brought forth by even the most arcane anthropologist can be readily offset by a couple of dozen other illustrations along the lines of those I just mentioned. Would sexism be perpetuated? Ask one of the Haudenosaunee clan mothers, who continue to assert political leadership in their societies through the present day. Ask Wilma Mankiller, current head of the Cherokee nation , a people that traditionally led by what were called “Beloved Women.” Ask a Lakota woman—or man, for that matter—about who it was that owned all real property in traditional society, and what that meant in terms of parity in gender relations. Ask a traditional Navajo grandmother about her social and political role among her people. Women in most traditional native societies not only enjoyed political, social, and economic parity with men, they often held a preponderance of power in one or more of these spheres. Homophobia? Homosexuals of both genders were (and in many settings still are) deeply revered as special or extraordinary, and therefore spiritually significant, within most indigenous North American cultures. The extent to which these realities do not now pertain in native societies is exactly the extent to which Indians have been subordinated to the mores of the invading, dominating culture. Insofar as restoration of Indian land rights is tied directly to the reconstitution of traditional indigenous social, political, and economic modes, you can see where this leads: the relations of sex and sexuality accord rather well with the aspirations of feminist and gay rights activism. How about a restoration of native land rights precipitating some sort of “environmental holocaust”? Let’s get at least a little bit real here. If you’re not addicted to the fabrications of Smithsonian anthropologists about how Indians lived, or George Weurthner’s Eurosupremacist Earth First! Fantasies about how we beat all the wooly mammoths and mastodons and saber-toothed cats to death with sticks, then this question isn’t even on the board. I know it’s become fashionable among Washington Post editorialists to make snide references to native people “strewing refuse in their wake” as they “wandered nomadically about the “prehistoric” North American landscape. What is that supposed to imply? That we, who were mostly “sedentary agriculturalists” in any event. Were dropping plastic and aluminum cans as we went? Like I said, lets get real. Read the accounts of early European arrival, despite the fact that it had been occupied by 15 or 20 million people enjoying a remarkably high standard of living for nobody knows how long: 40,000 years? 50,000 years? Longer? Now contrast that reality to what’s been done to this continent over the past couple of hundred years by the culture Weurthner, the Smithsonian, and the Post represent, and you tell me about environmental devastation. That leaves militarism and racism. Taking the last first, there really is no indication of racism in traditional Indian societies. To the contrary, the record reveals that Indians habitually intermarried between groups, and frequently adopted both children and adults from other groups. This occurred in precontact times between Indians, and the practice was broadened to include those of both African and European origin—and ultimately Asian origin as well—once contact occurred. Those who were naturalized by marriage or adoption were considered members of the group, pure and simple. This was always the Indian view. The Europeans and subsequent Euroamerican settlers viewed things rather differently, however, and foisted off the notion that Indian identity should be determined primarily by “blood quantum,” an outright eugenics code similar to those developed in places like Nazi Germany and apartheid South Africa. Now that’s a racist construction if there ever was one. Unfortunately, a lot of Indians have been conned into buying into this anti- Indian absurdity, and that’s something to be overcome. But there’s also solid indication that quite a number of native people continue to strongly resist such things as the quantum system. As to militarism, no one will deny that Indians fought wars among themselves both before and after the European invasion began. Probably half of all indigenous peoples in North America maintained permanent warrior societies. This could perhaps be reasonably construed as “militarism,” but not, I think, with the sense the term conveys within the European/Euro-American tradition. There were never, so far as anyone can demonstrate,, wars of annihilation fought in this hemisphere prior to the Columbian arrival, none. In fact, it seems that it was a more or less firm principle of indigenous warfare is not to kill, the object being to demonstrate personal bravery, something that could be done only against a live opponent. There’s no honor to be had in killing another person, because a dead person can’t hurt you. There’s no risk. This is not to say that nobody ever died or was seriously injured in the fighting. They were, just as they are in full contact contemporary sports like football and boxing. Actually, these kinds of Euro- American games are what I would take to be the closest modern parallels to traditional inter-Indian warfare. For Indians, it was a way of burning excess testosterone out of young males, and not much more. So, militarism in the way the term is used today is as alien to native tradition as smallpox and atomic bombs. Not only is it perfectly reasonable to assert that a restoration of Indian control over unceded lands within the United States would do nothing to perpetuate such problems as sexism and classism, but the reconstitution of indigenous societies this would entail stands to free the affected portions of North America from such maladies altogether. Moreover, it can be said that the process should have a tangible impact in terms of diminishing such oppressions elsewhere. The principle is this: sexism, racism, and all the rest arose here as a concomitant to the emergence and consolidation of the Eurocentric nation-state form of sociopolitical and economic organization. Everything the state does, everything it can do, is entirely contingent on its ongoing domination of Indian country. Given this, it seems obvious that the literal dismemberment of the nation-state inherent to Indian land recovery correspondingly reduces the ability of the state to sustain the imposition of objectionable relation within itself. It follows that the realization of indigenous land rights serves to undermine or destroy the ability of the status quo to continue imposing a racist, sexist, classist, homophobic, militaristic order on non-Indians.

#### Our first priority is to give back the land.

#### Decolonization must be our ethical first priority, any form of liberation that perpetuates the occupation of Indigenous territory is only colonialism in another form. The demand to end the occupation of First American lands is a necessary prerequisite to solving other forms of oppression and any form of positive social change

Churchill 96 (Ward, Prof. of Ethnic Studies @ U. of Colorado, Boulder BA and MA in Communications from Sangamon State, “From a Native Son”,mb)

The question which inevitably arises with regard to indigenous land claims, especially in the United States, is whether they are “realistic.” The answer, of course is , “No, they aren’t.” Further, no form of decolonization has ever been realistic when viewed within the construct of a colonialist paradigm. It wasn’t realistic at the time to expect George Washington’s rag-tag militia to defeat the British military during the American Revolution. Just ask the British. It wasn’t realistic, as the French could tell you, that the Vietnamese should be able to defeat U.S.-backed France in 1954, or that the Algerians would shortly be able to follow in their footsteps. Surely, it wasn’t reasonable to predict that Fidel Castro’s pitiful handful of guerillas would overcome Batista’s regime in Cuba, another U.S. client, after only a few years in the mountains. And the Sandinistas, to be sure, had no prayer of attaining victory over Somoza 20 years later. Henry Kissinger, among others, knew that for a fact. The point is that in each case, in order to begin their struggles at all, anti-colonial fighters around the world have had to abandon orthodox realism in favor of what they knew to be right. To paraphrase Bendit, they accepted as their agenda, a redefinition of reality in terms deemed quite impossible within the conventional wisdom of their oppressors. And in each case, they succeeded in their immediate quest for liberation. The fact that all but one (Cuba) of the examples used subsequently turned out to hold colonizing pretensions of its own does not alter the truth of this—or alter the appropriateness of their efforts to decolonize themselves—in the least. It simply means that decolonization has yet to run its course, that much remains to be done. The battles waged by native nations in North America to free themselves, and the lands upon which they depend for ongoing existence as discernible peoples, from the grip of U.S. (and Canadian) internal colonialism are plainly part of this process of liberation. Given that their very survival depends upon their perseverance in the face of all apparent odds , American Indians have no real alternative but to carry on. They must struggle, and where there is struggle here is always hope. Moreover, the unrealistic or “romantic” dimensions of our aspiration to quite literally dismantle the territorial corpus of the U.S. state begin to erode when one considers that federal domination of Native North America is utterly contingent upon maintenance of a perceived confluence of interests between prevailing governmental/corporate elites and common non- Indian citizens. Herein lies the prospect of long-term success. It is entirely possibly that the consensus of opinion concerning non-Indian “rights” to exploit the land and resources of indigenous nations can be eroded, and that large numbers of non-Indians will join in the struggle to decolonize Native North America. Few non- Indians wish to identify with or defend the naziesque characteristics of US history. To the contrary most seek to deny it in rather vociferous fashion. All things being equal, they are uncomfortable with many of the resulting attributes of federal postures and actively oppose one or more of these, so long as such politics do not intrude into a certain range of closely guarded selfinterests. This is where the crunch comes in the realm of Indian rights issues. Most non-Indians (of all races and ethnicities, and both genders) have been indoctrinated to believe the officially contrived notion that, in the event “the Indians get their land back,” or even if the extent of present federal domination is relaxed, native people will do unto their occupiers exactly as has been done to them; mass dispossession and eviction of non-Indians, especially Euro-Americans is expected to ensue. Hence even progressives who are most eloquently inclined to condemn US imperialism abroad and/or the functions of racism and sexism at home tend to deliver a blank stare of profess open “disinterest” when Indigenous land rights are mentioned. Instead of attempting to come to grips with this most fundamental of all issues the more sophisticated among them seek to divert discussion into “higher priority” or “more important” topics like “issues of class and gender equality” in with “justice” becomes synonymous with a redistribution of power and loot deriving from the occupation of Native North America even while occupation continues. Sometimes, Indians are even slated to receive “their fair share” in the division of spoils accruing from expropriation of their resources. Always, such things are couched in terms of some “greater good” than decolonizing the .6 percent of the U.S. population which is indigenous. Some Marxist and environmentalist groups have taken the argument so far as to deny that Indians possess any rights distinguishable from those of their conquerors. AIM leader Russell Means snapped the picture into sharp focus when he observed n 1987 that: so-called progressives in the United States claiming that Indians are obligated to give up their rights because a much larger group of non-Indians “need” their resources is exactly the same as Ronald Reagan and Elliot Abrams asserting that the rights of 250 million North Americans outweigh the rights of a couple million Nicaraguans (continues). Leaving aside the pronounced and pervasive hypocrisy permeating these positions, which add up to a phenomenon elsewhere described as “settler state colonialism,” the fact is that the specter driving even most radical non-Indians into lockstep with the federal government on questions of native land rights is largely illusory. The alternative reality posed by native liberation struggles is actually much different: While government propagandists are wont to trumpet—as they did during the Maine and Black Hills land disputes of the 1970s—that an Indian win would mean individual non-Indian property owners losing everything, the native position has always been the exact opposite. Overwhelmingly, the lands sought for actual recovery have been governmentally and corporately held. Eviction of small land owners has been pursued only in instances where they have banded together—as they have during certain of the Iroquois claims cases—to prevent Indians from recovering any land at all, and to otherwise deny native rights. Official sources contend this is inconsistent with the fact that all non-Indian title to any portion of North America could be called into question. Once “the dike is breached,” they argue, it’s just a matter of time before “everybody has to start swimming back to Europe, or Africa or wherever.” Although there is considerable technical accuracy to admissions that all non-Indian title to North America is illegitimate, Indians have by and large indicated they would be content to honor the cession agreements entered into by their ancestors, even though the United States has long since defaulted. This would leave somewhere close to two-thirds of the continental United States in non-Indian hands, with the real rather than pretended consent of native people. The remaining one-third, the areas delineated in Map II to which the United States never acquired title at all would be recovered by its rightful owners. The government holds that even at that there is no longer sufficient land available for unceded lands, or their equivalent, to be returned. In fact, the government itself still directly controls more than one-third of the total U.S. land area, about 770 million acres. Each of the states also “owns” large tracts, totaling about 78 million acres. It is thus quite possible— and always has been—for all native claims to be met in full without the loss to non-Indians of a single acre of privately held land. When it is considered that 250 million-odd acres of the “privately” held total are now in the hands of major corporate entities, the real dimension of the “threat” to small land holders (or more accurately, lack of it) stands revealed. Government spokespersons have pointed out that the disposition of public lands does not always conform to treaty areas. While this is true, it in no way precludes some process of negotiated land exchange wherein the boundaries of indigenous nations are redrawn by mutual consent to an exact, or at least a much closer conformity. All that is needed is an honest, open, and binding forum—such as a new bilateral treaty process—with which to proceed. In fact, numerous native peoples have, for a long time, repeatedly and in a variety of ways, expressed a desire to participate in just such a process. Nonetheless, it is argued, there will still be at least some non-Indians “trapped” within such restored areas. Actually, they would not be trapped at all. The federally imposed genetic criteria of “Indian –ness” discussed elsewhere in this book notwithstanding, indigenous nations have the same rights as any other to define citizenry by allegiance (naturalization) rather than by race. Non-Indians could apply for citizenship, or for some form of landed alien status which would allow them to retain their property until they die. In the event they could not reconcile themselves to living under any jurisdiction other than that of the United States, they would obviously have the right to leave, and they should have the right to compensation from their own government (which got them into the mess in the first place). Finally, and one suspects this is the real crux of things from the government/corporate perspective, any such restoration of land and attendant sovereign prerogatives to native nations would result in a truly massive loss of “domestic” resources to the United States, thereby impairing the country’s economic and military capacities (see “Radioactive Colonialism” essay for details). For everyone who queued up to wave flags and tie on yellow ribbons during the United States’ recent imperial adventure in the Persian Gulf, this prospect may induce a certain psychic trauma. But, for progressives at least, it should be precisely the point. When you think about these issues in this way, the great mass of non-Indian in North America really have much to gain and almost nothing to lose, from the success of native people in struggles to reclaim the land which is rightfully ours. The tangible diminishment of US material power which is integral to our victories in this sphere stands to pave the way for realization of most other agendas from anti-imperialism to environmentalism, from African American liberation to feminism, from gay rights to the ending of class privilege- pursued by progressives on this continent. Conversely, succeeding with any or even all of these other agendas would still represent an inherently oppressive situation in their realization is contingent upon an ongoing occupation of Native North America with the consent of Indian people. Any North American revolution which failed to free indigenous territory from non-Indian domination would be simply a continuation of colonialism in another form. Regardless of the angle from which you view the matter, the liberation of Native North America, liberation of the land first and foremost, is the key to fundamental and positive social changes of many other sorts. One thing they say, leads to another. The question has always been, of course, which “thing” is to be the first in the sequence. A preliminary formulation for those serious about radical change in the United State might be “First Priority to First Americans.” Put another way this would mean, “US out of Indian Country.” Inevitably, the logic leads to what we’ve all been so desperately seeking: The United States- at least what we’ve come to know it- out of North America all together. From there is can be permanently banished from the planet. In its stead, surely we can join hands to create something new and infinitely better. That’s our vision of “impossible realism,” isn’t it time we all worked on attaining it?

## Case

#### Making debate a space to confront privilege destroys the possibility for any actual political movement and reinforces the structures of oppression that you criticize and try to overcome.

Smith 2013

[Andrea Smith, 2013, The Problem with “Privilege”, <http://andrea366.wordpress.com/2013/08/14/the-problem-with-privilege-by-andrea-smith/>, uwyo//amp]

In my experience working with a multitude of anti-racist organizing projects over the years, I frequently found myself participating in various workshops in which participants were asked to reflect on their gender/race/sexuality/class/etc. privilege. These workshops had a bit of a self-help orientation to them: “I am so and so, and I have x privilege.” It was never quite clear what the point of these confessions were. It was not as if other participants did not know the confessor in question had her/his proclaimed privilege. It did not appear that these individual confessions actually led to any political projects to dismantle the structures of domination that enabled their privilege. Rather, the confessions became the political project themselves. The benefits of these confessions seemed to be ephemeral. For the instant the confession took place, those who do not have that privilege in daily life would have a temporary position of power as the hearer of the confession who could grant absolution and forgiveness. The sayer of the confession could then be granted temporary forgiveness for her/his abuses of power and relief from white/male/heterosexual/etc guilt. Because of the perceived benefits of this ritual, there was generally little critique of the fact that in the end, it primarily served to reinstantiate the structures of domination it was supposed to resist. One of the reasons there was little critique of this practice is that it bestowed cultural capital to those who seemed to be the “most oppressed.” Those who had little privilege did not have to confess and were in the position to be the judge of those who did have privilege. Consequently, people aspired to be oppressed. Inevitably, those with more privilege would develop new heretofore unknown forms of oppression from which they suffered. “I may be white, but my best friend was a person of color, which caused me to be oppressed when we played together.” Consequently, the goal became not to actually end oppression but to be as oppressed as possible. These rituals often substituted confession for political movement-building. And despite the cultural capital that was, at least temporarily, bestowed to those who seemed to be the most oppressed, these rituals ultimately reinstantiated the white majority subject as the subject capable of self-reflexivity and the colonized/racialized subject as the occasion for self-reflexivity.

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#### *Institutional* checks effectively limit war, are compatible with broader critique and are a pre-requisite to the alt

Grynaviski 13 – Eric Grynaviski, Professor of Political Science at The George Washington University, “The Bloodstained Spear: Public Reason and Declarations of War”, International Theory, 5(2), Cambridge Journals

Conclusion

The burden of the argument, thus far, has been to show that no war is justified unless it has been justified. States have an obligation intent on war to ensure that third parties and the target are given reasons for the war, as well as a chance to respond and reason with the belligerent state. Furthermore, without a declaration of war, war is not a last resort and therefore belligerent states are fully responsible for the harms that wars inevitably do to the innocent.

One broader implication of the argument for declarations of war is to relate institutional solutions for moral questions. Some argue that declarations of war are an old and moribund ritual, antiquated and old-fashioned. Ian Holliday (2002, 565), noting the irregularity with which wars are declared, writes ‘we would not want to make a just war verdict hang on such a rare political practice’. This argument is deeply wrong. If declaring war is important, than we can and should criticize states for failing to do so. Others might suggest that even if states do declare war, they might still lie and misrepresent their case. Of course, there is nothing particular to declarations of war that would make misrepresentations of one's case more likely; we are pretty good at lying now. If arguments are given publicly, however, it might lead to a greater degree of precision in argumentation. This precision may make misrepresentations more noticeable. Alternatively, one might suspect that requiring states to declare war is not enough. Rather than simply requiring states to make a case, we should institutionalize rules of war so that states will pay a price if the cases they make are repugnant. These arguments, of course, do not exclude the importance of declarations. In fact, requiring that states explain their case is perfectly compatible with any reasonable institutional solution to the problem of war. Some mechanism to ensure that states make a case is probably an important condition for any of these schemes to work.

The international system likely will not include robust, impartial international institutions that can make enforceable decisions about war and peace in the near future. Declarations of war are a tool that might actually be appropriated by states, especially if the public and the international community demand them. Half-formed cosmopolitan proposals, while interesting thought exercises, may deflect attention from practical measures that can be reached here and now. Declarations may be only first steps, but they are important ones. Moral arguments make a difference, even if that difference is too often small. They mattered during slavery, decolonization, and have altered citizenship policies in Israel, the Ukraine, and elsewhere (Checkel 2001; Crawford 2002). Moreover, forcing states to explain the moral case may make unjust wars less likely by preventing executives from overselling conflicts (Goodman 2006) or by leading states to face hypocrisy costs if they intervene despite target states’ concessions on just cause or inflict humanitarian causalities in wars declared for humanitarian reasons (Finnemore 2009).

A broader implication relates to public reason and just war thinking. Showing that poorly justified, undeclared wars are unjust highlights the way that public reason conditions our understanding of just war theory. This argument is not new. In the last year of his life, Cicero (1913, 37) elaborated a theory of war that emphasized discussion and persuasion. His claim, discussed above, is worth reiterating: ‘there are two ways of settling a dispute; first, by discussion; second, by physical force; and since the former is characteristic of man, the latter of the brute, we must resort to force only in case we may not avail ourselves of discussion’. Cicero's approach to war highlights mechanisms of public diplomacy – the importance of maintaining agreements with enemies, the use of declarations of war to inform enemies of the rationale for war, and discussion and diplomacy to peacefully resolve conflict – to explain the conditions under which a resort to force is justified. Cicero's comments presaged his end; when Anthony's men executed Cicero, they cut off his hands – the device used by Cicero to write criticisms of Anthony – and nailed them to rostra (the platform in the forum where speakers could be heard).

Cicero's distinction between force and argument is central to his thinking about the conditions under which violence is justly used. After Cicero, the centrality of discussion and argument fades, disappearing by the 20th century. Consider several recent examples. Jean Bethke Elshtain (2003, 19) – a noted just war theorist – describes terrorists as groups that are unwilling to accept compromises and refuse diplomacy: ‘terrorists are not interested in the subtleties of diplomacy or in compromise solutions. They have taken leave of politics’. Michael Walzer (1977), a just war theorist often credited for the revival of moral thinking about war after Vietnam, barely mentions obligations to settle disputes through negotiation in his key text Just and Unjust Wars. More amusingly in many ways, moral philosophers often construct hypothetical examples designed to showcase the types of moral dilemmas involved in war that unrealistically exclude the possibility of successful diplomacy. David Rodin (2002, 80), for example, describes a person trapped at the bottom of a well who has to decide whether to shoot a ray gun at a fat man falling into the well above his head, knowing that if he does not shoot the ray gun he will die. Discussion with the fat man – of course – is impossible; he is falling and no longer has control over his actions.22

Modern discussions of ethics in war usually discount diplomatic solutions. In doing so, they are rooted in an extraordinarily pessimistic version of realism, where only power and force have the ability to settle conflict. When painting war as a solution to pressing concerns related to self-defense against terrorists who have no interest in compromise, or the rescue of populations from genocide by regimes who will take any delay as cause to continue killing innocents, diplomacy does not loom large as a central component of just war reasoning.

#### Decisionmaking is the most portable skill—key to all facets of life and advocacy

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. 9-10//wyoccd)

After several days of intense debate, first the United States House of Representatives and then the U.S. Senate voted to authorize President George W. Bush to attack Iraq if Saddam Hussein refused to give up weapons of mass destruction as required by United Nations's resolutions. Debate about a possible military\* action against Iraq continued in various governmental bodies and in the public for six months, until President Bush ordered an attack on Baghdad, beginning Operation Iraqi Freedom, the military campaign against the Iraqi regime of Saddam Hussein. He did so despite the unwillingness of the U.N. Security Council to support the military action, and in the face of significant international opposition.¶ Meanwhile, and perhaps equally difficult for the parties involved, a young couple deliberated over whether they should purchase a large home to accommodate their growing family or should sacrifice living space to reside in an area with better public schools; elsewhere a college sophomore reconsidered his major and a senior her choice of law school, graduate school, or a job. Each of these\* situations called for decisions to be made. Each decision maker worked hard to make well-reasoned decisions.¶ Decision making is a thoughtful process of choosing among a variety of options for acting or thinking. It requires that the decider make a choice. Life demands decision making. We make countless individual decisions every day. To make some of those decisions, we work hard to employ care and consideration; others seem to just happen. Couples, families, groups of friends, and coworkers come together to make choices, and decision-making homes from committees to juries to the U.S. Congress and the United Nations make decisions that impact us all. Every profession requires effective and ethical decision making, as do our school, community, and social organizations.¶ We all make many decisions even- day. To refinance or sell one's home, to buy a high-performance SUV or an economical hybrid car. what major to select, what to have for dinner, what candidate CO vote for. paper or plastic, all present lis with choices. Should the president deal with an international crisis through military invasion or diplomacy? How should the U.S. Congress act to address illegal immigration?¶ Is the defendant guilty as accused? Tlie Daily Show or the ball game? And upon what information should I rely to make my decision? Certainly some of these decisions are more consequential than others. Which amendment to vote for, what television program to watch, what course to take, which phone plan to purchase, and which diet to pursue all present unique challenges. At our best, we seek out research and data to inform our decisions. Yet even the choice of which information to attend to requires decision making. In 2006, TIMI: magazine named YOU its "Person of the Year." Congratulations! Its selection was based on the participation not of ''great men" in the creation of history, but rather on the contributions of a community of anonymous participants in the evolution of information. Through blogs. online networking. You Tube. Facebook, MySpace, Wikipedia, and many other "wikis," knowledge and "truth" are created from the bottom up, bypassing the authoritarian control of newspeople. academics, and publishers. We have access to infinite quantities of information, but how do we sort through it and select the best information for our needs?¶ The ability of every decision maker to make good, reasoned, and ethical decisions relies heavily upon their ability to think critically.

Critical thinking enables one to break argumentation down to its component parts in order to evaluate its relative validity and strength. Critical thinkers are better users of information, as well as better advocates.¶ Colleges and universities expect their students to develop their critical thinking skills and may require students to take designated courses to that end. The importance and value of such study is widely recognized.¶ Much of the most significant communication of our lives is conducted in the form of debates. These may take place in intrapersonal communications, in which we weigh the pros and cons of an important decision in our own minds, or they may take place in interpersonal communications, in which we listen to arguments intended to influence our decision or participate in exchanges to influence the decisions of others.¶ Our success or failure in life is largely determined by our ability to make wise decisions for ourselves and to influence the decisions of others in ways that are beneficial to us. Much of our significant, purposeful activity is concerned with making decisions. Whether to join a campus organization, go to graduate school, accept a job oiler, buy a car or house, move to another city, invest in a certain stock, or vote for Garcia—these are just a few of the thousands of decisions we may have to make. Often, intelligent self-interest or a sense of responsibility will require us to win the support of others. We may want a scholarship or a particular job for ourselves, a customer for out product, or a vote for our favored political candidate.

## GBL

## 2NC Impact Calc

#### Ow/s the aff- violence committed against Native people must be understood as qualitatively different than the marginalizations that occur to other minority groups- key to recognizing the colonialist privilege these groups seek to attain on stolen land

Sandy Grande. “American Indian Geographies of Power: At the Crossroads of Indigena and Mestizaje.” Harvard Educational Review, 70:4. Winter 2000.

In this article, Sandy Marie Anglas Grande outlines the tensions between American Indian epistemology and critical pedagogy. She asserts that the deep structures of critical pedagogy fail to consider an Indigenous perspective. In arguing that American Indian scholars should reshape and reimagine critical pedagogy, Grande also calls for critical theorists to reexamine their epistemological foundations. Looking through these two lenses of critical theory and Indigenous scholarship, Grande begins to redefine concepts of democracy, identity, and social justice. Until Indians resolve for themselves a comfortable modern identity that can be used to energize reservation institutions, radical changes will not be of much assistance. (Deloria & Lytle, 1984, p. 266) Our struggle at the moment is to continue to survive and work toward a time when we can replace the need for being preoccupied with survival with a more responsible and peaceful way of living within communities and with the everchanging landscape that will ever be our only home. (Warrior, 1995, p. 126) Broadly speaking, this article focuses on the intersection between dominant modes of critical pedagogy' and American Indian intellectualism.2 At present, critical theories are often indiscriminately employed to explain the sociopolitical conditions of all marginalized peoples. As a result, many Indigenous scholars view the current liberatory project as simply the latest in a long line of political endeavors that fails to consider American Indians as a unique populations Thus, while critical pedagogy may have propelled mainstream educational theory and practice along the path of social justice, I argue that it has muted and thus marginalized the distinctive concerns of American Indian intellectualism and education. As such, I argue further that the particular history of imperialism enacted upon Indigenous peoples requires a reevaluation of dominant views of democracy and social justice, and of the universal validity of such emancipatory projects - including critical pedagogy. It is not that critical pedagogy is irrelevant to Indigenous peoples, as they clearly experience oppression, but rather that the deep structures of the "pedagogy of oppression" fail to consider American Indians as a categorically different population, virtually incomparable to other minority groups. To assert this is not to advocate any kind of hierarchy of oppression but merely to call attention to the fundamental difference of what it means to be a sovereign and tribal people within the geopolitical confines of the United States.

## Link- Discourse

#### Shifting identity, destroys the possibility for material change

Teuton, 2001 (Sean, “Placing Ancestor’s postmodernism, realism and American Indian identity in James’s Welch’s winter in the blood” AIQ Vol 25, #4, 2001, project must, mb)

Paula Moya, a Chicana feminist who utilizes realism to support a Third World feminism, summarizes the context of the realist project with a critique of the work of postmodernist feminists Donna Haraway and Judith Butler: Common to both Haraway’s and Butler’s accounts of identity is the as- sumption of a postmodern “subject” of feminism whose identity is un- stable, shifting, and contradictory: “she” can claim no grounded tie to any aspect of “her” identit(ies) because “her” anti-imperialist, shifting, and contradictory politics have no cognitive basis in experience. Ironically, al- though both Haraway and Butler lay claim to an anti-imperialist project, their strategies of resistance to oppression lack efficacy in the material world.18 Moya makes a realist claim to identity because she recognizes that “a politics of discourse that does not provide for some sort of bodily or concrete action outside the realm of the academic text will forever be inadequate to change the difficult ‘reality’ of our lives.”19 In reconsidering the possibility of objective knowledge achieved through the link between identity and social location, Moya and other realist scholars find identity a philosophically defensible basis for political resistance.

# 1nr

### Link O/V

#### 3rd, gifts only reaffirm the system of differences between the giver and the receiver—the act of giving relies on the inferiority of the poor, the starving, and the powerless

R. L. Stirrat, an anthropologist who teaches at the University of Sussex, and Heiko Henkel studied history in Hamburg and [anthropology](http://www.lexis.com/research/retrieve?_m=fcfba9797652cee8146a6e6e1a9537fc&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzk-zSkAW&_md5=cdb814f025a380ae15e750654fbad657) in Copenhagen and Sussex, currently working on the anthropology of development, especially on genealogies of the concept of participation in Western development discourse, November 1997, “THE ROLE OF NGOs: CHARITY AND EMPOWERMENT: The Development Gift: The Problem of Reciprocity in the NGO World”, 554 Annals 66, http://www.lexis.com/research/retrieve?\_m=fcfba9797652cee8146a6e6e1a9537fc&csvc=le&cform=byCitation&\_fmtstr=FULL&docnum=1&\_startdoc=1&wchp=dGLbVzk-zSkAW&\_md5=cdb814f025a380ae15e750654fbad657

Yet it is difficult to argue that relationships founded on and materialized through gifts can lead to a denial of difference. Admittedly, the giver may feel a certain sense of identity with the ultimate receiver, but it is doubtful if that feeling is reciprocated, and the evidence on the experience of partnerships would appear to support such doubt. Gifts, like charity, do not lead easily to identification but, rather, to a reaffirmation of difference. The logic of the journey of the development gift is of a set of relationships between different entities, the relationships in part defining those entities and at the same time being defined by them. Furthermore, there is a very pragmatic sense in which difference is essential if the flow of gifts is to continue. The poor, the starving, the powerless are essential if the giving is to continue. Thus while, on the one hand, altruism and the pure gift to the development NGO may be founded on universalistic ideals about the unity of humanity, on the other, it is motivated and maintained by a recognition of difference. In the end, this could be seen as no more than a recognition that the surplus that is available for the giving of gifts is the product of precisely the same system of production, exchange, and distribution that produces the poor who receive these gifts.

#### 4th, transference – the affirmative acts as a façade for further discrimination against other minority populations which is why the gift is so pervasive, because it justifies control and domination on levels external to the plan – only our alternative can solve

Delgado, Professor of Law at Pitt, 2003 (Richard, Texas Law Review, November l/n gjm)

By the same token, Brown v. Board of Education n109 ended official school segregation for African-American children at precisely the time when Congress was ordering Operation Wetback, under which 1.3 million Mexicans and Mexican Americans, many of them lawful U.S. citizens, were deported. n110 In 1913, California's Alien Land Law made it illegal for aliens ineligible for citizenship to lease land for more than three years, a measure that proved devastating for Japanese farmers. n111 A few years later, Congress eased immigration quotas for Mexican farmworkers. n112 Today, Indian tribes have been winning a series of breakthroughs, establishing the right to sponsor casino gambling and proving mismanagement in federal trust accounts, all at the very time California has been enacting a series of anti-Latino ballot measures. n113 The checkerboard of racial history, with progress for one group coupled with retrenchment for another, features innumerable similar examples. What does the author make of all this? It is a product, he says, of the psychological phenomena of transference and displacement, which occur when feelings toward one person are refocused on another, who is defenseless or more exploitable.n114 He also invokes the idea of scapegoating, n115 in which members of powerful groups discharge frustration on nonmembers who are not the cause of that frustration but who are safer to attack.

### *Impact O/V*

#### 2nd, The gift reinforces oppression and prevents case solvency

**Arrigo and Williams, 2k** (Christopher R. Williams, PhD, forensic psychology, professor and chairman of the Department of Criminal Justice Studies at Bradley University, Bruce A. Arrigo, PhD, administration of justice, professor of criminology, law, and society, Department of Criminal Justice and Criminology at the University of North Carolina, Faculty Associate in the Center for Professional and Applied Ethics, “The (Im)Possibility of Democratic Justice and the ‘Gift’ of the Majority,” Journal of Contemporary Criminal Justice, Vol. 16, No. 3, August 2000, pgs. 321-343 GBN SK Article on Sage Publications, http://ccj.sagepub.com/content/16/3/321)

Reciprocation on your part is impossible.Even if one day you are able to return our monetary favor twofold, we will always know that it was us who first hosted you; extended to and entrusted in you an opportunity given your time of need. As the initiators of such a charity, weare always in a position of power, and you are always indebted to us. This is where the notion of egoism or conceit assumes a hegemonic role.By giving to you, a supposed act of gen­erosity in the name of furthering your cause**,** we have not empowered you. Rather, we have empowered ourselves. We have less than subtlely let you know that we have more than you. We have so much more, in fact, that we can afford to give you some. Our giving becomes, not an act of beneficence, but a show of power, that is, narcissistic hegemony! Thus, we see that the majority gift is a ruse: a simulacrum of movement toward aporetic equality and a simulation of democratic justice. By relying on the legislature (representing the majority) when economic and social opportunities are availed to minority or underrepresented collectives, the process takes on exactly the form of Derrida's gift. The majority controls the political, economic, legal, and social arenas; that is, it is (and always has been) in control of such communities as the employment sector and the edu­cational system. The mandated opportunities that under- or nonrepresented citizens receive as a result of this falsely eudemonic endeavor are gifts and, thus, ultimately constitute an effort to make minority populations feel better. There is a sense of movement toward equality in the name of democratic jus­tice, albeit falsely manufactured.18 In return for this effort, the majority shows off its long-standing authority (this provides a stark realization to minority groups that power elites are the forces that critically form society as a com­munity), forever indebts under- and nonrepresented classes to the generosity of the majority (after all, minorities groups now have, presumably, a real chance to attain happiness), and, in a more general sense, furthers the narcis­sism of the majority (its representatives have displayed power and have been generous). Thus, the ruse of the majority gift assumes the form and has the hegemonical effect of empowering the empowered, relegitimating the privi­leged, and fueling the voracious conceit of the advantaged.

#### 3rd, The ruse of the gift turns case

Arrigo and Williams 2k

(Bruce A., Christopher R., professor of @ the University of North Carolina, associate professor of criminology @ the University of West Georgia, Possibility of Democratic Justice and the "Gift" of the Majority : On Derrida, Deconstruction, and the Search for Equality Journal of Contemporary Criminal Justice)

This is the relationship between the gift and justice. Justice cannot appear as such; it cannot be calculated as in the law or other tangible commodities (Derrida, 1997). Although Derrida acknowledges that we must attempt to calculate, there is a point beyond which calculation must fail and we must recognize that no amount of estimation can adequately assign justice (Derrida, 1997). For equality (like the "gift beyond exchange and distribution"; Der­rida, 1992, p. 7) to be possible, we must go beyond any imaginable, knowable notion. This is why the gift and justice are conceptually (im)possible (Desilva Wijeyeratne, 1998). They serve a necessary purpose in society; however, they represent something to always strive for, something that mobilizes our desire. If the impossible was possible, we would stop trying and desire would die.Justice, and thus democracy, is an appeal for the gift. As Derrida (1992) notes, "this 'idea of justice' seems to be irreducible in its affirmative charac­ter, in its demand of gift without exchange, without circulation, without rec­ognition of gratitude, without economic circularity, without calculation and without rules, without reason and without rationality" (p. 25). The gift (of equality), like justice and democracy, is an aporia, an (im)possibility. Thus, the use of the gift as a transaction in the name of equality, and equality in the name of justice and democracy, is truly (un)just, **(**un)democratic, and (in)equitable**.** The gift is a calculated, majoritarian endeavor toward illusive equality. Equality beyond such a conscious effort (i.e., where the illusion is displaced) is open-ended and absent of any obligatory reciprocation. As Caputo (1997) notes, "justice is the welcome given to the other in which I do not... have anything up my sleeve" (p. 149). With this formula of equality and justice in mind, one may still speculate on the law's relationship to the gift. But again, the law as a commodity, as a thing to be transacted, eliminates its prospects as something to be given.

### Alternative:

#### The alternative is a pre-requisite to understanding identity and overcoming narcissism

Arrigo and Williams, of the California School of Professional Psychology, 2K (Bruce and Christopher, Journal of Contemporary Criminal Justice, August page First Search)

To emancipate both agency and structure, an affirmative postmodern perspective would require that subjects themselves be deconstructed and reconstructed, that is, function as subjects-in-process or as emergent subjects (JanMohamed, 1994; Kristeva, 1986). Under- and nonrepresented groups would actively engage in the task of uncovering, recovering, and recoding their identities (e.g., Collins, 1990; hooks, 1989) in ways that are less encumbered by prevailing (majority) sensibilities regarding their given constitutions. The economy of narcissism would, more likely, be suspended, and the culture of difference would, more likely, be positionally and provisionally realized.