### 1st Off

#### OUR INTERPRETATION: The resolution asks a yes/no question as to the desirability of the United States Federal Government action. The role of the ballot should be to affirm or reject the actions and outcomes of the plan.

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

Webster’s Guide to Grammar and Writing 2K

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

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

#### 2. “RESOLVED” EXPRESSES INTENT TO IMPLEMENT THE PLAN

American Heritage Dictionary 2K

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

To find a solution to; solve …

To bring to a usually successful conclusion

#### 3. “SHOULD” DENOTES AN EXPECTATION OF ENACTING A PLAN

American Heritage Dictionary – 2K

[www.dictionary.com]

3 Used to express probability or expectation

#### 4. THE U.S.F.G. is the three branches of government

Dictionary.com 2k6 [<http://dictionary.reference.com/browse/united+states+government>]

|  |
| --- |
| noun |
| the executive and legislative and judicial branches of the federal government of the United States |

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

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

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

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

Glover 10

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

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

### 2nd Off

#### Black feminist politics are still additive, binary, and zero-sum-this logic of the aff collapses politics into oppression olympics and ignores the multifaceted nature of privileges and disadvantages that each person contains- The Alternative is to reject the aff’s focus on phenomenal black women and affirm paradigm intersectionality in debate.

Hancock 2012

[Ang-Marie Hancock, is Associate Professor of Political Science and Gender Studies. Professor Hancock is the author of the award-winning The Politics of Disgust and the Public Identity of the “Welfare Queen,” (2004, New York University Press) and a globally recognized scholar of to r study of intersectionality – the study of the intersections of race, gender, class and ect politics and their impact on public policy., 2012, uwyo//amp]

Paradigm Intersectionality is an analytical framework for questions of social justice. Even as early as Kimberle Williams Crenshaw's landmark article, "Mapping the Margins," intersectional analysis is represented as "an approach"6 rather than simply an assertion of relevant identity content. It is critical to note that Crenshaw did not contend that intersectional identity as a social fact causes limitations and outcomes - that is, the trouble is not with the intersectional bodies or identities of women of color she placed at the center of the analysis. Rather it is the politics that surrounds such bodies, as Crenshaw notes explicitly: "Although racism and sexism readily intersect in the lives of real people, they seldom do in feminist and antiracist practices. And so, when the practices expound identity as woman or person of color as an either/or proposition, they relegate women of color to a location that resists telling."7 In this regard, intersectional analysis answered questions leftunanswerable by prior analytical approaches to race or gender,8 suggesting that intersectionality can be thought of in paradigmatic terms by focusing on the logical shifts intersectionality theorists have made. What would a paradigm intersectionality approach to the Trayvon Martin case look like? It would shiftour analysis in three important ways.¶ From the start of the inquiry paradigm intersectionality changes the first-order question we ask in seeking to comprehend the broader meaning of what happened to Trayvon Martin. A standard identity politics first-order question formulation would go something like this:¶ a. Was it Martin's race that drove Zimmerman to claim a justifiable response (shooting and killing) to the presence of an unknown Black man?¶ In other words, does race matter? Popular challenges made by black and other women of color feminists to account for gender, class and sexuality as equally important have been met with early attempts that sought to incorporate the content of additional categories, but preserved the mutually exclusive logic of old identity politics, resulting in the following reformulation:¶ b. Was it Martin's race or Martin's gender or Martin's (perceived) class or age that drove Zimmerman to his acts?¶ Though many women of color feminists would reject this reading of their claims, it remains popular, particularly among empirical scholars. A more acceptable reading of women of color feminist claims might put forth the following first-order question:¶ c. Was it Martin's race, gender, age and perceived class together that drove Zimmerman to his acts?¶ This reading, while more palatable to women of color feminists, remains problematic because it preserves a combination of additive, binary and zero-sum logic present in much identity politics. The additive logic of formulation c) implies that it is solely the count of marginalized identity memberships that drives intersectional analysis, which often produces incredibly destructive Oppression Olympics-style races for the title of most oppressed.9 The binary logic leftuntouched here preserves our attention on a bright line divide between "oppressed" and "oppressor," whereas the more complicated story of persons, groups and structures having differential locations is more accurately the case.10 Together the additive and binary logic reinforce a zero-sum approach to how we conceptualize questions of social justice that face our democracy - that your gain must mean my concomitant loss.¶ All three ways of thinking stymie processes of deliberation and cooperation. Thus neither reformulation b) or c), though arguably consistent with multicultural feminism, fully encompass what I take to be the power of intersectionality as an "approach" to understanding questions of social justice. Paradigm intersectionality attempts to incorporate two shifts in understanding how analytical categories, as social constructions with material effects, can interlock and shape phenomena.¶ First, paradigm intersectionality conceptualizes the inegalitarian traditions associated with such analytical categories as equally significant but neither identical nor mutually exclusive in their roles as threats to a fully inclusive democracy. Consider, for example, the diverse, historically contingent roles that the "biological argument" has played across these spectra. Some perpetuate marginality (e.g., racial/ethnic minorities are biologically predisposed to hypersexuality and fecundity; women have biologically-driven nurturing tendencies). Identity politics-driven movements for liberation have responded in various ways, including episodic efforts that seek to re-valorize such claims. On the other hand, biological arguments have served to do ostensibly liberatory work in different ways even within the same general analytical category. For instance, the biological (specifically the genetic) has served to undermine arguments characterizing non-heterosexual orientations as "choices" and contemporaneously operated in the opposite fashion to endow transgender folks with the power of self-presentation and transformation of their gender identity. While obviously equality across races, sexes, and sexualities are clearly as-yet unachieved ideals, paradigm intersectionality detaches from the idea that such struggles are identical or mutually exclusive - historically or conceptually.¶ The second shiftthat changes the first-order question is achieved by shifting attention away from a binary analysis of individuals, groups, and societies as either powerful or powerless, perpetrator or victim. Paradigm intersectionality seeks to jettison the additive-binary-zero-sum calculus, conceptualizing individuals, for example, as bundles of privilege and disadvantage based on their structural locations and relationships to opportunity, rather than as solely the sum of their disadvantages. The first-order question then becomes:¶ d. How do inegalitarian traditions interact and emerge in our understanding of the meaning of George Zimmerman's shooting of Trayvon Martin?

### 3rd Off

#### We affirm phenomenal Black womyn in debate but reject the 1AC’s use of a video.

#### Your politics relies on occularcentrism- Visuality is the context for white male protestant domination- a historically privileged acces to writing and legal power and a preference for visuality on the part of the elite created the preconditions for legal oppression. Visuality and its expression in visual metaphor are both the origin and mechanism of oppression

Hibbits 94

[Prof @ University of Pittsburgh School of Law, “Making Sense of Metaphors” 16 Cardozo Law Review 229 (1994) online @ http://faculty.law.pitt.edu/hibbitts/meta\_int.htm, loghry]

The traditional visuality of American legal metaphor has, however, been more than just a function of general cultural circumstance. It has also been the product of power: the power of American men over women, the power of American whites over blacks, the power of American "Anglos" over Hispanics, and the power of American Protestants over Catholics and Jews. By making special use of the written word to secure or extend their cultural authority, members of the former groups have gained a special respect for vision and the visual that they have unilaterally made the standard for "American" culture as a whole. In conditions where their literacy has been involuntarily restricted or their own traditions have set limits to their trust of writing, members of the latter groups have either been forced or have chosen to grant relatively more respect to aural expression and experience.213 As American men, whites, Anglos, and Protestants have used their cultural authority to first monopolize, and then numerically and politically dominate the ranks of the American legal profession, they and those whom they have coerced or co-opted have indulged their visuality in, among other things, a consistent preference for visual legal metaphor. They have literally shaped American legal language in their own images.¶ [2.30] Generalizing about the circumstances or perspectives shared by the members of any group is a risky business. One must steer between the Scylla of "essentialism" and the Charybdis of "antiessentialism," recognizing on the one hand that individuals falling into a single category may, as individuals, be different in many respects,214 while acknowledging on the other hand that diverse individuals sharing a particular identity may, fortunately or unfortunately, have had similar experiences or developed similar views by virtue of that identity or society's reaction to it.215 In this portion of the Article, I nonetheless focus on differences between groups more than on differences between individuals because I fear that following the latter course would compromise our appreciation of important power relationships that have historically operated for and against certain Americans by virtue of their gender, racial, ethnic, and religious associations. Here I should stress a point I previously made in passing:216 the group generalizations to be discussed are strictly limited by being contingent constructs of culture, not inevitable incidents of biology. They moreover illustrate differences of degree, rather than of kind. They reveal, if you like, human differences mediated by human sameness.217Keeping all this in mind, I will spend the next few pages exploring how greater exposure to, dependence on, and even literal faith in writing have traditionally encouraged some American groups to embrace visuality more enthusiastically than have others. I will then examine how the members of these former groups have imposed their visuality on American legal culture and, in that course, on American legal language.¶ [2.31] I begin with the observation that American men's culture has traditionally enjoyed a closer, more intense association with the written word than has the culture comprised of American women.218 This was true from the earliest days of the republic.219 Many American men absorbed the finer points of reading, writing, and literate learning as youngsters in grammar schools and universities which for a long time were open only to them. As adults, a good number engaged in businesses or professional callings (most of which, again, were open only to men) that required them to spend some portion of the day reading or writing correspondence, contracts, or other texts. Into the twentieth century, American men frequently assumed responsibility at home for reading such standard writings as the Bible and the newspaper aloud to female members of their families. Today some American feminists still consider the written word-at least in its traditional semantic and syntactic incarnations-to be fundamentally "male."220¶ [2.32] It may be argued that the extent of their involvement with written material has led American men as a group-like men in other Western societies-to take a great interest in the phenomenon of visual observation that has been the source of so much of their textual knowledge and authority.221 As modern feminist scholarship has taken pains to emphasize (if not necessarily explain), the "gaze" has historically been more of a "male" than a "female" medium.222 In the American tradition, men have been primarily responsible for reducing the world-and, in the process, women-to visual, two-dimensional texts, paintings, photographs,223 electronic images,224 diagrams, and equations.225 In their capacities as school administrators, college professors, historians, curators, and archivists, American men have long been in charge of preserving and perpetuating the corpus of American visual culture over time. As scientists and philosophers, they have further indulged their visuality by using mostly visual metaphors to describe the central intellectual operations of thinking and knowing: they have made "observations," offered "perspectives," and "speculated" on the nature of reality.226¶ [2.33] The desire and even the need to look that has animated American male experience has frequently been coupled with a limited and somewhat selective devaluation of aurality and evocatively aural forms. At least since the late eighteenth century, most American men have rejected dialogue and story as respectable vehicles for the communication of important written information.227 More generally, American men as a group have been eager to prescribe silence as a positive personal and social value for others, if not necessarily for themselves.228 This latter strategy has been feasible in part because many American men have had access to a visual medium of communication (writing) which in their experience has not depended on sound to provide its sense. The strategy has moreover been politically useful because it has enabled American men to consolidate their control of other groups that have been more dependent on aural expression. The command that women (not to mention children) be "seen and not heard"-implicitly evoked from the anti-scolding laws of the seventeenth century229 through the marital evidence laws of the nineteenth century230-has been a prime guarantor of patriarchal power.

### 4th Off

**Trading autobiographical narrative for the ballot commodifies one’s identity and has limited impact on the culture that one attempt’s to reform – when autobiographical narrative “wins,” it subverts its own most radical intentions by becoming an exemplar of the very culture under indictment**

**Coughlin 95**—associate Professor of Law, Vanderbilt Law School. (Anne, REGULATING THE SELF: AUTOBIOGRAPHICAL PERFORMANCES IN OUTSIDER SCHOLARSHIP, 81 Va. L. Rev. 1229)

Although Williams is quick to detect insensitivity and bigotry in remarks made by strangers, colleagues, and friends, her taste for irony fails her when it comes to reflection on her relationship with her readers and the material benefits that her autobiographical performances have earned for her. n196 Perhaps Williams should be more inclined to thank, rather than reprimand, her editors for behaving as readers of autobiography invariably do. When we examine this literary faux pas - the incongruity between Williams's condemnation of her editors and the professional benefits their publication secured her - we detect yet another contradiction between the outsiders' use of autobiography and their desire to transform culture radically. Lejeune's characterization of autobiography as a "contract" reminds us that **autobiography is a lucrative commodity**. **In our culture**, members of **the** reading **public** **avidly** **consume personal stories**, n197 which surely explains why first-rate law journals and academic presses have been eager to market outsider narratives. **No matter how unruly the self that it records, an autobiographical performance transforms that self into a form of "property in a moneyed economy**" n198 and into a valuable intellectual [\*1283] asset in an academy that requires its members to publish. n199 Accordingly, we must be skeptical of the assertion that the outsiders' splendid publication record is itself sufficient evidence of the success of their endeavor. n200

Certainly, publication of a best seller may transform its author's life, with the resulting commercial success and academic renown. n201 As one critic of autobiography puts it, "failures do not get published." n202 **While** writing a **successful autobiography may be momentous for the individual** author, **this** **success has a limited impact on culture**. Indeed, **the transformation of outsider authors into "success stories" subverts outsiders' radical intentions by constituting them as exemplary participants within contemporary culture, willing to market even themselves** **to** literary and **academic consumers**. n203 What good does this transformation do for outsiders who are less fortunate and less articulate than middle-class law professors? n204 Although they style themselves cultural critics, the [\*1284] storytellers generally do not reflect on the meaning of their own commercial success, nor ponder its entanglement with the cultural values they claim to resist. Rather, **for the most part, they seem content simply to take advantage of the peculiarly American license**, identified by Professor Sacvan Bercovitch, **"to have your dissent and make it too**." n205

**Performance is not a mode of resistance - it gives too much power to the audience because the performer is structurally blocked from controlling the (re)presentation of their representations. Appealing to the ballot is a way of turning over one’s identity to the same reproductive economy that underwrites liberalism**

**Phelan 96**—chair of New York University's Department of Performance Studies (Peggy, Unmarked: the politics of performance, ed published in the Taylor & Francis e-Library, 2005, 146

**Performance’s only life is in the present. Performance cannot** be saved, recorded, documented, or otherwise **participate in the circulation of representations of representations**: once it does so, it becomes something other than performance. **To the degree that performance attempts to enter the economy of reproduction it betrays and lessens the promise of its own** ontology. Performance’s being, like the ontology of subjectivity proposed here, becomes itself through disappearance.

**The pressures brought to bear on performance to succumb to the laws of the reproductive economy are enormous**. **For only rarely in this culture is the “now” to which performance addresses its deepest questions valued**. (This is why the now is supplemented and buttressed by the documenting camera, the video archive.) Performance occurs over a time which will not be repeated. It can be performed again, but this repetition itself marks it as “different.” **The document of a performance then is only a spur to memory, an encouragement of memory to become present**.

**resistance/empowerment via the ballot can only instill an adaptive politics of being and effaces the institutional constraints that reproduce structural violence**

**Brown 95**—prof at UC Berkely (Wendy, States of Injury, 21-3)

**For some**, fueled by opprobrium toward regulatory norms or other mo- dalities of domination, **the language of "resistance" has taken up** the **ground** vacated by a more expansive practice of freedom. **For others, it is the discourse of “empowerment”** that carries the ghost of freedom's valence ¶ 22¶. **Yet** as many have noted, **insofar as resistance is an effect of the regime it opposes** on the one hand, **and insofar as its practitioners often seek to void it of normativity to differentiate it from the (regulatory) nature of what it opposes** on the other, **it is at best** politically **rebellious; at worst, politically amorphous**. **Resistance stands against**, **not for; it is re- action** to domination, rarely willing to admit to a desire for it, **and** it is **neutral with regard to possible political direction**. Resistance is in no way constrained to a radical or emancipatory aim. a fact that emerges clearly as soon as one analogizes Foucault's notion of resistance to its companion terms in Freud or Nietzsche. Yet in some ways this point is less a critique of Foucault, who especially in his later years made clear that his political commitments were not identical with his theoretical ones (and un- apologetically revised the latter), than a sign of his misappropriation. For Foucault, resistance marks the presence of power and expands our under- standing of its mechanics, but it is in this regard an analytical strategy rather than an expressly political one. "Where there is power, there is resistance, and yet. or rather consequently, this **resistance is never in a position of exteriority to power**. . . . (**T]he strictly relational character of power relationships** . . . **depends upon a multiplicity of points of resis- tance: these play the role of adversary, target, support, or handle in power relations**.\*39 This appreciation of the extent to which **resistance is by no means inherently subversive of power** also reminds us that it is only by recourse to a very non-Foucaultian moral evaluation of power as bad or that which is to be overcome that it is possible to equate resistance with that which is good, progressive, or seeking an end to domination. ¶ If popular and academic notions of resistance attach, however weakly at times, to a tradition of protest, the other contemporary substitute for a discourse of freedom—“empowerment”—would seem to correspond more closely to a tradition of idealist reconciliation. **The language of resistance implicitly acknowledges the extent to which protest always transpires inside the regime**; “**empowerment**,” **in contrast, registers the possibility of generating one’s capacities**, one’s “self-esteem,” one’s life course, without capitulating to constraints by particular regimes of power. **But in so doing**, contemporary **discourses of empowerment too often signal an oddly adaptive and harmonious relationship with domination insofar as they locate an individual’s sense of worth** and capacity **in the register of individual feelings**, **a register** implicitly **located on** some- thing of **an otherworldly plane vis-a-vis social and political power**. In this regard, **despite its apparent locution of resistance to subjection**, contem- porary **discourses of empowerment partake strongly of liberal solipsism**—the radical decontextualization of the subject characteristic of¶ 23¶ liberal discourse that is key to the fictional sovereign individualism of liberalism. Moreover, **in its almost exclusive focus on subjects’ emotionalbearing** and self-regard, **empowerment is a formulation that converges with a regime’s own legitimacy needs in masking the power of the regime**.¶ This is not to suggest that talk of empowerment is always only illusion or delusion. It is to argue, rather, that while the notion of empowerment articulates that feature of freedom concerned with action, with being more than the consumer subject figured in discourses of rights and eco- nomic democracy, **contemporary deployments** of that notion also **draw so heavily on an undeconstructed subjectivity that they risk establishing a wide chasm between the (experience of) empowerment and an actual capacity to shape the terms of political, social, or economic life. Indeed, the possibility that one can “feel empowered” without being so forms an important element of legitimacy for the antidemocratic dimensions of liberalism.**

**Our alternative is to reject the affirmative’s focus on subjectivirty to recognize debate as a site of contingent commonality in which we can forge bonds of argumentation beyond identity---their focus abdicates the flux of politics and debate for the incontestable truth of identity**

**Brown 95**—prof at UC Berkely (Wendy, States of Injury, 47-51)

The postmodern exposure of the imposed and created rather than dis- covered character of all knowledges—of the power-surtuscd, struggle-¶48¶produced quality of all truths, including reigning political and scientific ones—simultaneously exposes the groundlessness of discovered norms or visions. It also reveals the exclusionary and regulatory function of these norms: **white women who cannot locate themselves in** Nancy **Hartsock’s account of women’s experience** or women s desires, **African American women who do not identify with** Patricia **Hill Collinss account of black women’s ways of knowing**, **are once again excluded from the Party of Humanism—this time in its feminist variant**. ¶**Our alternative** to reliance upon such normative claims **would seem to be engagement in political struggles in which there are no trump cards such as “morality” or “truth."Our alternative**, in other words, **is to struggle within an amoral political habitat for temporally bound and** **fully contestable visions of** who we are and **how we ought to live.** Put still another way, postmodernity unnerves feminist theory not merely because it deprives us of uncomplicated subject standing, as Christine Di Stefano suggests, or of settled ground for knowledge and norms, as Nancy Hartsock argues, or of "centered selves and “emancipatory knowledge," as Seyla Bcnhabib avers. Postmodernity unsettles feminism because it erodes the moral ground that the subject, truth, and nor- mativity coproduce in modernity. When contemporary feminist political theorists or analysts complain about the antipolitical or unpolitical nature of postmodern thought—thought that apprehends and responds to this erosion—they arc protesting, inter' aha, a Nictzschcan analysis of truth and morality as fully implicated in and by power, and thereby dplegiti- mated qua Truth and Morality Politics, including politics with passion- ate purpose and vision, can thrive without a strong theory of the subject, without Truth, and without scientifically derived norms—one only need reread Machiavelli, Gramsci, or Emma Goldman to see such a politics flourish without these things. **The question is whether** fnninist **politics can prosper without a moral apparatus**, whether feminist theorists and activists will give up **substituting Truth and Morality for politics**. **Are we willing to engage in struggle rather than recrimination**, **to develop our faculties rather than avenge our subordination with moral and epistemological gestures**, **to fight for a world rather than conduct process on the existing one**? Nictzschc insisted that extraordinary strengths of character and mind would be necessary to operate in thce domain of epistemological and religious nakedness he heralded. But in **this** heexcessively individualized a challenge that more importantly **requires the deliberate development of postmoral** and antirelativist **political spaces, practices of deliberation, and modes of adjudication**.¶49¶The only way through a crisis of space is to invent a new space —Fredric Jameson. “Postmodernism"¶Precisely because of its incessant revelation of settled practices and identi- ties as contingent, its acceleration of the tendency to melt all that is solid into air. **what is called postmodernity poses the opportunity to radically sever the problem of the good from the problem of the true, to decide “what we want” rather than derive it from assumptions or arguments about “who we are.”Our capacity to exploit this opportunity positively will be hinged to our success in developing new** modes and **criteria for political judgment**. It will also depend upon our willingness to break certain modernist radical attachments, particularly to Marxism’s promise (however failed) of meticulously articulated connections betwreen a com- prehensive critique of the present and norms for a transformed future—a science of revolution rather than a politics of oneResistance, the practice most widely associated with postmodern polit- ical discourse, responds to without fully meeting the normativity chal- lenge of postmodernity. A vital tactic in much political w’ork as wrcll as for mere survival, resistance by itself does not contain a critique, a vision, or grounds for organized collective efforts to enact either. Contemporary affection for the politics of resistance issues from postmodern criticism’s perennial authority problem: our heightened consciousncss of the will to power in all political “positions” and our wrariness about totalizing an- alyses and visions. **Insofar as it eschew’s rather than revises**these **problematic practices, resistance-as-politics does not raise the dilemmas of responsibility and justification entailed in “affirming” political projects and norms.** In this respect, like identity politics, and indeed **sharing with identity politics an excessively local viewpoint and tendency toward positioning without mapping**, the contemporary vogue of **resistance is more a symptom of postmodernity’s crisis of political space than a coherent response to it.Resistance goes nowhere in particular, has no inherent attachments, and hails no particular vision**; as Foucault makes clear, **resistance is an effect of and reaction to power, not an arrogation of it**.¶**What** postmodernity disperses and postmodern feminist **politics requires are cultivated political spaces for posing and questioning** feminist **political norms**, for discussing the nature of “the good” for women. Democratic political space is quite undcrtheonzed in contemporary femi- nist thinking, as it is everywhere in latc-twentieth-ccntury political the- ory, primarily bccausc it is so little in evidence. Dissipated by the increasing tcchnologizing of would-be political conversations and pro- cesses, by the erosion of boundaries around specifically political domains¶50¶and activities, and by the decline of movement politics, political spaces are scarcer and thinner today than even in most immediately prior epochs of Western history. In this regard, their condition mirrors the splayed and centrifuged characteristics of postmodern political power. Yet precisely because of postmodernity’s disarming tendencies toward political disori- entation, fragmentation, and technologizing, the creation of spaces where political analyses and norms can be proffered and contested is su- premely important.¶Political space is an old theme in Western political theory, incarnated by the polis practices of Socrates, harshly opposed by Plato in the Repub- lic, redeemed and elaborated as metaphysics by Aristotle, resuscitated as salvation for modernity by Hannah Arendt. jnd given contemporary spin in Jurgen Habermas's theories of ideal speech situations and com- municative rationality. The project of developing feminist postmodern political spaces, while enriched by pieces of this tradition, necessarily also departs from it. In contrast with Aristotle’s formulation, feminist politi- cal spaces cannot define themselves against the private sphere, bodies, reproduction and production, mortality, and all the populations and is- sues implicated in these categories. Unlike Arendt’s, these spaces cannot be pristine, ratified, and policed at their boundaries but are necessarily cluttered, attuned to earthly concerns and visions, incessantly disrupted, invaded, and reconfigured. Unlike Habermas, wc can harbor no dreams of nondistorted communication unsullied by power, or even of a ‘com- mon language,’\* but wc recognize as a permanent political condition par- tiality of understanding and expression, cultural chasms whose nature may be vigilantly identified but rarely “resolved,” and the powers of words and images that evoke, suggest, and connote rather than transmit meanings.42 **Our spaces, while requiring some definition and protection**, cannot be clean, sharply bounded, disembodied, or permanent: **to engage postmodern modes of power** and honor specifically feminist knowledges, **they must be heterogenous, roving, relatively noninstitutionalized, and democratic to the point of exhaustion.¶**Such spaces **are crucial for developing the skills and practices of** post- modern **judgment**, addressing the problem of “how to produce a discourse on justicc . . . when one no longer relies on ontology or epistemology.”43 **Postmodemity’s dismantling of metaphysical foundations for justice renders us quite vulnerable to domination by technical reason ¶**51¶**unless we seize the opportunity this erosion also creates to develop democratic processes for formulating** postepistemelogical and postontological **judgments. Such judgements require learning how to have public conversations with each other, arguing from a vision about the common (“what I want for us") rather than from identity (“who I am”),and from explicitly postulated norms and potential common values rather than false essentialism or unreconstructed private interest.**44 **Paradoxically, such public and comparatively impersonal arguments carry potential for greater accountability than arguments from identity or interest. While the former may be interrogated to the ground by others**, **the latter are insulated from such inquiry with the mantle of truth worn by identity-based speech**. Moreover, **postidentitypolitical positions** and conversations **potentially replace a politics of difference with a politics of diversity**—**differences grasped from a perspective larger than simply one point in an ensemble.Postidentity public positioning requires an outlook that discerns structures of dominance within diffused** and disorienting **orders of power,** thereby **stretching toward a more politically potent analysis than that which our individuated and fragmented existences can generate**. In contrast to Di Stefano's claim that 'shared identity” may constitute a more psychologically and politically reliable basis for “attachment and motivation on the part of potential activists,” I am suggesting that **political conversation oriented toward** diversity and the common, **toward world rather than self, and involving a conversion of ones knowledge of the world from a situated (subject) position into a public idiom,offers us the greatest possibility of countering postmodern social fragmentations and political disintegrations.**¶Feminists have learned well to identify and articulate our "subject positions —**we have become experts at politicizing the “I”that is produced through multiple sites ofpower and subordination. But the very practice so crucial to making these elements of power visible and subjectivity political may be** partly **at odds with the requisites for developing political conversation among a complex and diverse “we.” We may need to learn public speaking and the pleasures of public argument not to overcome our situatedness**, **but in order to assume responsibility for our situations and to mobilize a collective discourse that will expand them**. For the political making of a feminist future that does not reproach the history on which it is borne, **we may need to loosen our attachments to subjectivity, identity, and morality and to redress our underdeveloped taste for political argument.**

### 1NC: Solvency

#### The ballot is not a tool of emancipation, but rather a tool of revenge---it serves as a palliative that denies their investment in oppression as a means by which to claim the power of victory

Enns 12—Professor of Philosophy at McMaster University (Dianne, The Violence of Victimhood, 28-30)

Guilt and Ressentiment We need to think carefully about what is at stake here. Why is this perspective appealing, and what are its effects? At first glance, the argument appears simple: white, privileged women, in their theoretical and practical interventions, must take into account the experiences and conceptual work of women who are less fortunate and less powerful, have fewer resources, and are therefore more subject to systemic oppression. The lesson of feminism's mistakes in the civil rights era is that this “mainstream” group must not speak for other women. But such a view must be interrogated. Its effects, as I have argued, include a veneration of the other, moral currency for the victim, and an insidious competition for victimhood. We will see in later chapters that these effects are also common in situations of conflict where the stakes are much higher. ¶ We witness here a twofold appeal: otherness discourse in feminism appeals both to the guilt of the privileged and to the resentment, or ressentiment, of the other. Suleri's allusion to “embarrassed privilege” exposes the operation of guilt in the misunderstanding that often divides Western feminists from women in the developing world, or white women from women of color. The guilt of those who feel themselves deeply implicated in and responsible for imperialism merely reinforces an imperialist benevolence, polarizes us unambiguously by locking us into the categories of victim and perpetrator, and blinds us to the power and agency of the other. Many fail to see that it is embarrassing and insulting for those identified as victimized others not to be subjected to the same critical intervention and held to the same demands of moral and political responsibility. Though we are by no means equal in power and ability, wealth and advantage, we are all collectively responsible for the world we inhabit in common. The condition of victimhood does not absolve one of moral responsibility. I will return to this point repeatedly throughout this book.¶ Mohanty's perspective ignores the possibility that one can become attached to one's subordinated status, which introduces the concept of ressentiment, the focus of much recent interest in the injury caused by racism and colonization. Nietzsche describes ressentiment as the overwhelming sentiment of “slave morality,” the revolt that begins when ressentiment itself becomes creative and gives birth to values. 19 The sufferer in this schema seeks out a cause for his suffering—“ a guilty agent who is susceptible to suffering”— someone on whom he can vent his affects and so procure the anesthesia necessary to ease the pain of injury. The motivation behind ressentiment, according to Nietzsche, is the desire “to deaden, by means of a more violent emotion of any kind, a tormenting, secret pain that is becoming unendurable, and to drive it out of consciousness at least for the moment: for that one requires an affect, as savage an affect as possible, and, in order to excite that, any pretext at all.” 20 In its contemporary manifestation, Wendy Brown argues that ressentiment acts as the “righteous critique of power from the perspective of the injured,” which “delimits a specific site of blame for suffering by constituting sovereign subjects and events as responsible for the ‘injury’ of social subordination.” Identities are fixed in an economy of perpetrator and victim, in which revenge, rather than power or emancipation, is sought for the injured, making the perpetrator hurt as the sufferer does. 21¶ 30¶ Such a concept is useful for understanding why an ethics of absolute responsibility to the other appeals to the victimized. Brown remarks that, for Nietzsche, the source of the triumph of a morality rooted in ressentiment is the denial that it has any access to power or contains a will to power. Politicized identities arise as both product of and reaction to this condition; the reaction is a substitute for action— an “imaginary revenge,” Nietzsche calls it. Suffering then becomes a social virtue at the same time that the sufferer attempts to displace his suffering onto another. The identity created by ressentiment, Brown explains, becomes invested in its own subjection not only through its discovery of someone to blame, and a new recognition and revaluation of that subjection, but also through the satisfaction of revenge. 22¶ The outcome of feminism's attraction to theories of difference and otherness is thus deeply contentious. First, we witness the further reification reification of the very oppositions in question and a simple reversal of the focus from the same to the other. This observation is not new and has been made by many critics of feminism, but it seems to have made no serious impact on mainstream feminist scholarship or teaching practices in women's studies programs. Second, in the eagerness to rectify the mistakes of “white, middle-class, liberal, western” feminism, the other has been uncritically exalted, which has led in turn to simplistic designations of marginal, “othered” status and, ultimately, a competition for victimhood. Ultimately, this approach has led to a new moral code in which ethics is equated with the responsibility of the privileged Western woman, while moral immunity is granted to the victimized other. Ranjana Khanna describes this operation aptly when she writes that in the field of transnational feminism, the reification of the other has produced “separate ethical universes” in which the privileged experience paralyzing guilt and the neocolonized, crippling resentment. The only “overarching imperative” is that one does not comment on another's ethical context. An ethical response turns out to be a nonresponse. 23 Let us turn now to an exploration of this third outcome.

### 1NC: Video Adv

#### The attempt to shock debate with horrifying representations of oppression fails-makes the debate community insensitive to oppression and pushes competitors to find ever more horrifying examples of oppression-. We need worse and worse perversions to shock us resulting in greater indifference. This cycle stymies us to all catastrophes.

Bruckner, 1986

(Pascal, "The Tears of the White Man: Compassion as Contempt." Pg 48-50)

To convince the skeptical, the media stop at nothing, and the excesses of exhibitionism are added to the accusation that we are worse than the Nazis. The camera shrinks at nothing, and no censorship can be imposed upon horror. Every image\_must shock by crossing a new frontier in outrage. We are invited to watch the "extraordinary, that which has never been seen before, and then we see even more than that. Famines, floods, earthquakes—all get instant replay for the cameras. It is celluloid suffering; a continuous stream of images flows from those who produce pageants of others' deaths for a worldwide audience. It is a pornographic display, in that it gives us the right to see everything. And of all our impulses, the only one that stimulates voyeurism, because the the producers believe that, in order to get people's attention, the show has to be increasingly crude. The aim becomes that of showing mutilations, torture, and sicknesses that have never before been seen on the television screen.10 It is not enough to show swollen-bellied children: they have to be displayed as skeletons. If this doesn't work, they are shown as a bundle of skin and bones. Blood, wounds, running sores, globs of pus, eviscerated bellies, spilled guts. . . . Only excess will shake up the public and concern them with these problems. If apathy persists, it is believed it is because the scenes have not been outrageous enough. There are no limits to the excessive display of grisly details. This leads inevitably to the perversion of voyeurism. We get a taste for this game, and want more and more, and our threshold The cataloguing of poverty is itself poor, and has to rehash the same figures constantly. We have been brought face to face with hell, but all excesses have a saturation point, and after months and years of this sort of experience, we inescapably are led in our disgust to lump together the people these images depict. Our shock has no. consequence, no result; it appears and vanishes at the same moment. In this morass of disasters that are supposed to preclude business as usual, how can the viewing public avoid getting lost? The media succeed in making us indifferent to things over which we have no control, in making tolerable the intolera­ble. § Marked 13:12 § *We* go through opposite experiences at the same moment— we experience horror in the form of epidemics and mass murders at the same time that we experience satiation, because we cannot take any more and these images are unbearably repetitive. Value judgments aside, there are the two impressions that linger with the viewing public: a slight feeling of nausea and a feeling of shame and frustration. At the beginning, these broadcasts are special, but they quickly become routine. Their violence becomes stale and their repetitiveness reduces the strength of their accusations. So over­taxed emotions lead straight to inertia. In a world where all coun­tries seem like a nightmare painting from Hieronymus Bosch, in which men become more and more sophisticated in their murder­ous cruelty, our sense of guilt goes from depression to lassitude. The abnormal becomes banal, and our reason no longer tries to express itself, but "insanity rationalizes," in the apt phrase of Giinter Grass.12 The result is a terrible paradox. The more widespread hunger is, the greater is our indifference to its ravages. Pathetic appeals to our conscience and manipulation by shock are reiterated by the tireless television. The phrase "You are all murderers" does not mobilize people, it makes them yawn. What remains is a guilty conscience that has no strength and no will. We have passed from being tragically ignorant of the Third World to being tragically inured to it. When it was not normally mentioned, famine was deeply touching whenever it was. What is remarkable today is that it is too well known, too much a part of the norm.. Rather than a blackout there is a welter of studies, statistics, and calls to alarm on these burning topics. Our emotional appetites are beset from all sides, and rather than bemg misled by propaganda, we are being told far too much. When catastrophe becomes an everyday thing, it ceases to be catastrophe.

#### The aff’s narrative is grounded in injuries of the past with no guide for the future---this reinscribes exclusion and foreclosures social justice

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2 The Reification of Identity We wish to turn now to a related problem within identity politicsthat can be best described as the problem of the reiﬁcation of politicised identities. Brown (1995) positions herself within thedebate about identity politics by seeking to elaborate on “the wounded character of politicised identity’s desire” (ibid: 55); thatis, the problem of “wounded attachments” whereby a claim to identity becomes over-invested in its own historical suffering and perpetuates its injury through its refusal to give up its identity claim. Brown’s argument is that where politicised identity is founded upon an experience of exclusion, for example, exclusion itself becomes perversely valorised in the continuance of that identity. In such cases, group activity operates to maintain and reproduce the identity created by injury (exclusion) rather than– and indeed, often in opposition to – resolving the injurious social relations that generated claims around that identity in the ﬁrst place. If things have to have a history in order to have af uture, then the problem becomes that of how history is con-structed in order to make the future. To the extent that, for Brown, identity is associated primarily with (historical) injury, the future for that identity is then already determined by the injury “as both bound to the history that produced it and as a reproach to the present which embodies that history” (ibid 1995: 73). Brown’s sug-gestion that as it is not possible to undo the past, the focus back- wards entraps the identity in reactionary practices, is, we believe,too stark and we will pursue this later in the article. Politicised identity, Brown maintains, “emerges and obtains its unifying coherence through the politicisation of exclusion from an ostensible universal, as a protest against exclusion” (ibid: 65). Its continuing existence requires both a belief in the legitimacy of the universal ideal (for example, ideals of opportunity, and re- ward in proportion to effort) and enduring exclusion from those ideals. Brown draws upon Nietzsche in arguing that such identi-ties, produced in reaction to conditions of disempowerment andinequality, then become invested in their own impotence through practices of, for example, reproach, complaint, and revenge. These are “reactions” in the Nietzschean sense since they are substitutes for actions or can be seen as negative forms of action. Rather than acting to remove the cause(s) of suffering, that suf-fering is instead ameliorated (to some extent) through “the estab-lishment of suffering as the measure of social virtue” (ibid 1995:70), and is compensated for by the vengeful pleasures of recrimi-nation. Such practices, she argues, stand in sharp distinction to –in fact, provide obstacles to – practices that would seek to dispel the conditions of exclusion. Brown casts the dilemma discussed above in terms of a choicebetween past and future, and adapting Nietzsche, exhorts theadoption of a (collective) will that would become the “redeemer of history” (ibid: 72) through its focus on the possibilities of creat-ing different futures. As Brown reads Nietzsche, the one thingthat the will cannot exert its power over is the past, the “it was”.Confronted with its impotence with respect to the events of thepast, the will is threatened with becoming simply an “angry spec-tator” mired in bitter recognition of its own helplessness. The onehope for the will is that it may, instead, achieve a kind of mastery over that past such that, although “what has happened” cannotbe altered, the past can be denied the power of continuing to de-termine the present and future. It is only this focus on the future, Brown continues, and the capacity to make a future in the face of human frailties and injustices that spares us from a rancorous decline into despair. Identity politics structured by ressentiment – that is, by suffering caused by past events – can only break outof the cycle of “slave morality” by remaking the present againstthe terms of the past, a remaking that requires a “forgetting” of that past. An act of liberation, of self-afﬁrmation, this “forgettingof the past” requires an “overcoming” of the past that offers iden-tity in relationship to suffering, in favour of a future in whichidentity is to be deﬁned differently. In arguing thus, Brown’s work becomes aligned with a posi-tion that sees the way forward for emancipatory politics as re-siding in a movement away from a “politics of memory” (Kilby 2002: 203) that is committed to articulating past injustices andsuffering. While we agree that investment in identities prem-ised upon suffering can function as an obstacle to alleviating the causes of that suffering, we believe that Brown’s argument as outlined is problematic. First, following Kilby (2002), we share a concern about any turn to the future that is ﬁgured as a complete abandonment of the past. This is because for those who have suffered oppression and exclusion, the injunction to give up articulating a pain that is still felt may seem cruel and impossible to meet. We would argue instead that the “turn to the future” that theorists such as Brown and Grosz callfor, to revitalise feminism and other emancipatory politics, need not be conceived of as a brute rejection of the past. Indeed, Brown herself recognises the problems involved here, stating that [since] erased histories and historical invisibility are themselves suchintegral elements of the pain inscribed in most subjugated identities[then] the counsel of forgetting, at least in its unreconstructedNietzschean form, seems inappropriate if not cruel (1995: 74). She implies, in fact, that the demand exerted by those in painmay be no more than the demand to exorcise that pain throughrecognition: “all that such pain may long for – more than revenge– is the chance to be heard into a certain release, recognised intoself-overcoming, incited into possibilities for triumphing over, and hence, losing itself” (1995: 74-75). Brown wishes to establish the political importance of remembering “painful” historical events but with a crucial caveat: that the purpose of remembering pain is to enable its release . The challenge then, according to her,is to create a political culture in which this project does not mutate into one of remembering pain for its own sake. Indeed, if Brown feels that this may be “a pass where we ought to part with Nietzsche” (1995: 74), then Freud may be a more suit-able companion. Since his early work with Breuer, Freud’s writ-ings have suggested the (only apparent) paradox that remember-ing is often a condition of forgetting. The hysterical patient, who is doomed to repeat in symptoms and compulsive actions a past she cannot adequately recall, is helped to remember that trau-matic past in order then to move beyond it: she must remember inorder to forget and to forget in order to be able to live in the present. 7 This model seems to us to be particularly helpful for thedilemma articulated by both Brown (1995) and Kilby (2002),insisting as it does that “forgetting” (at least, loosening the holdof the past, in order to enable the future) cannot be achieved without ﬁrst remembering the traumatic past. Indeed, this wouldseem to be similar to the message of Beloved , whose central motif of haunting (is the adult woman, “Beloved”, Sethe’s murderedchild returned in spectral form?) dramatises the tendency of theunanalysed traumatic past to keep on returning, constraining, asit does so, the present to be like the past, and thereby, disallow-ing the possibility of a future different from that past. As Sarah Ahmed argues in her response to Brown, “in order to break the seal of the past, in order to move away from attach-ments that are hurtful, we must ﬁrst bring them into the realm of political action” (2004: 33). We would add that the task of analys-ing the traumatic past, and thus opening up the possibility of political action, is unlikely to be achievable by individuals on their own, but that this, instead, requires a “community” of participants dedicated to the serious epistemic work of rememberingand interpreting the objective social conditions that made up thatpast and continue in the present. The “pain” of historical injury is not simply an individual psychological issue, but stems from objective social conditions which perpetuate, for the most part, forms of injustice and inequality into the present. In sum, Brown presents too stark a choice between past andfuture. In the example of Beloved with which we began thisarticle, Paul D’s acceptance of Sethe’s experiences of slavery asdistinct from his own, enable them both to arrive at new under-standings of their experience. Such understanding is a way of partially “undoing” the (effects of) the past and coming to terms with the locatedness of one’s being in the world (Mohanty 1995). As this example shows, opening up a future, and attending to theongoing effects of a traumatic past, are only incorrectly under-stood as alternatives. A second set of problems with Brown’s critique of identity poli-tics emerge from what we regard as her tendency to individualise social problems as problems that are the possession and theresponsibility of the “wounded” group. Brown suggests that the problems associated with identity politics can be overcome through a “shift in the character of political expression and politi-cal claims common to much politicised identity” (1995: 75). She deﬁnes this shift as one in which identity would be expressed in terms of desire rather than of ontology by supplanting the lan-guage of “I am” with the language of “I want this for us” (1995:75). Such a reconﬁguration, she argues, would create an opportu-nity to “rehabilitate the memory of desire within identiﬁcatory processes…prior to [their] wounding” (1995: 75). It would fur-ther refocus attention on the future possibilities present in theidentity as opposed to the identity being foreclosed through its attention to past-based grievances.

# 1NR

#### Preference for visuality in the law and public has been a tool used to consolidate dominance of the white, Protestant, American male as the benchmark of success- visual metaphor has been used to deny women and people of color access to the law, education, voting, etc- the impact is the recurring violence against these bodies- Through visual metaphors and presentations, white men have shaped the law in their own image- that’s HIbbits 94

Visual representations reify and consolidate the power of the law over bodies

Hibbits 94 (Bernard J., Assoc. Prof of Law @ Pitt, “Making Sense of Metaphors: Visuality, Aurality, and the Reconfiguration of American Legal Discourse” Cardozo Law Review, 229, <http://faculty.law.pitt.edu/hibbitts/meta_int.htm> )

While American legal discourse has embraced a range of figurative expressions evoking all sorts of sensory experience,[2](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d2) it has long favored visual metaphors. We frequently consider law as a matter of looking: we "observe" it; we evaluate claims "in the eye of the law";[3](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d3) our high courts "review" the decisions of inferior tribunals. Alternatively, we speak of law as something one would usually look at: it is a "body," a "text," a "structure," a "bulwark of freedom,"[4](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d4) a "seamless web,"[5](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d5) and even a "magic mirror."[6](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d6) We identify particular legal concepts with striking visual images: property rights are a "bundle of sticks";[7](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d7) a long-standing constitutional principle is a "fixed star";[8](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d8) a sequence of ownership is a "chain of title."[9](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d9) We associate legal reasoning with the manipulation of visible geometric forms: we try to "square" precedents with one another;[10](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d10) we repeatedly agonize over "where the line [between different doctrines and situations] can be drawn."[11](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d11) We discuss legality in terms of light and darkness: we search for "bright-line"[12](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d12) tests; we consider an area of concurrent jurisdiction to be a "zone of twilight";[13](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d13) we seek to extend constitutional protections by probing the shadowy "penumbras"[14](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d14) of well-known guarantees. With the aid of metaphor, we go so far as to give law the visual quality of hue: we may make a property claim under "color of title";[15](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d15) we discourage "yellow dog" contracts [16](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d16) and make securities trading subject to "blue sky" laws;[17](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d17) for good or ill, we frequently adhere to "black letter" rules.[18](http://faculty.law.pitt.edu/hibbitts/meta_fin.htm" \l "d18) hibbits contniues a bit later… [2.24] In English law, William Blackstone set his Commentaries in a metaphoric language that was strikingly visualist, especially considering that his work was born as a series of lectures wherein aural metaphors would have been tolerated and even naturally expected. Blackstone repeatedly made "observations,"[171](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d171) analyzed legal powers from various "views" or "points of view,"[172](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d172) and reported that truths "appear."[173](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d173) He notably regarded himself as offering the prospective law student "a general map" of the law,[174](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d174) which he later described in visual terms as a magnificent, if somewhat antiquated, "Gothic castle."[175](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d175) In American law, visuality similarly manifested itself in the form, and even arguably in some of the features, of the written Constitution approved at Philadelphia.[176](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d176) Thomas Jefferson proclaimed that the Constitution was "a good canvas, on which some strokes only want retouching";[177](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d177) he called the principles protected in the Bill of Rights a "bright constellation" which had guided the republic through the course of revolution and reformation.[178](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d178) Early in the nineteenth century, Chief Justice John Marshall's constitutional jurisprudence was fraught with visual metaphors, some of which were inspired by the very visibility of the document he was construing.[179](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d179) Later in the nineteenth century, such English and American legal educators as A1bert Venn Dicey, Frederick Pollock, and Christopher Columbus Langdell employed the radically disembodied visual metaphor of law as geometry [180](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d180) to reconceive freedom "as a set of barriers against coercive intrusion into zones of autonomous conduct."[181](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d181) English legal historian Frederic Maitland pioneered the similarly abstract characterization of law as a visible "seamless web."[182](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d182) It was nonetheless another jurist, Oliver Wendell Holmes, Jr., who best reflected the sensory bias of the age. Holmes repeatedly approached law, not to mention life and language,[183](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d183) as a matter of looking. It was he who first described law as a "magic mirror";[184](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d184) it was he who first advanced the notion that law could be found in a "penumbra."[185](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d185) Such metaphoric language gave law, not to mention his own words, extraordinary power and presence in an unprecedentedly visualist culture**.** [2.25] The added boost that print provided to the social and intellectual status of vision gradually undermined the position still occupied by the other forms of sensory experience in the Western tradition. In societies no longer so unfamiliar or uncomfortable with the visible word that they needed sound, touch, or savor to ensure their own survival, those senses could be abandoned as primary carriers of information; in some instances they could even be condemned. Aurality suffered especially. From the seventeenth through the nineteenth centuries (with perhaps a brief interruption during the consciously nostalgic days of Romanticism),[186](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d186) speech was radically severed from writing and reading; the latter became almost universally understood as silent practices having a distinct and superior syntactic style.[187](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d187) Rhetoric was transformed into the more visual study of composition and belles-lettres.[188](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d188) At least among the "reading" middle and upper classes, silence became a powerful norm of social etiquette and order.[189](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d189) Aural concepts such as the "music of the spheres" were driven from the realm of Newtonian science.[190](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d190) Written literature cast off most of the aural forms it had previously assumed. The dialogue first became strangely "monologic,"[191](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d191) and then was virtually abandoned as a leading literary device.[192](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d192) Poetry, to the extent it was not supplanted by less aurally appealing prose,[193](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d193) was increasingly written not for the ear, but for the eye.[194](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d194) Once again, the form as a whole was analogized to painting-ut pictura poesis.[195](http://faculty.law.pitt.edu/hibbitts/meta_f2.htm" \l "d195)

#### You can’t sever your reliance on visual metaphors- these metaphors inform our psychology and the way we perceive the world- means that your entire political project is tainted by ocularcentrism

Hibbits 94

[Prof @ University of Pittsburgh School of Law, “Making Sense of Metaphors” 16 Cardozo Law Review 229 (1994) online @ http://faculty.law.pitt.edu/hibbitts/meta\_int.htm, loghry]

[1.4] As we have come to appreciate that metaphor is omnipresent, we have come to take it very seriously.38 Today, few would dismiss it as mere semantic decoration, ornament, or rhetorical device. Some scholars have indeed gone so far in the other direction as to suggest that metaphors are fundamental tools of thought and reasoning-so much a part of the deep structure of our mentality that "our ordinary conceptual system . . . is . . . metaphorical in nature."39

[1.5] As an aspect of our mentality's deep structure, our metaphors can reveal a great deal about us, both as individuals and as members of a broader culture. I may use a certain metaphor because I am, or at least my culture is, familiar with the metaphor's subject matter. Coming readily to my mind as a pole of comparison, the metaphor will be meaningful to others sharing similar life experiences or backgrounds. For example, using the metaphoric expression "I struck out" to communicate failure suggests a personal and/ or cultural familiarity with baseball. Alternatively, I may use a particular metaphor because I and/or my society value or devalue its subject; using the metaphor can therefore accentuate positive or negative reaction to the metaphor's referent. For instance, were I a libertarian, or were I living in a libertarian culture, I might label government a "parasite." My choice of metaphor would not only communicate my dislike of government, but, by association, my dislike of parasites as well.

[1.6] "Modal" metaphors of the sort examined in this Article can be particularly revealing of our circumstances and values. Modal metaphors directly or indirectly evoke specific modes or forms of human sensory experience: sight, sound, touch, smell, or taste. For example, if I call an attitude an "outlook," I am using a modal metaphor evoking visual experience. Alternatively, if I speak of the "texture" of an argument, I am using a modal metaphor evoking tactile experience. Over time, individuals may develop or demonstrate a penchant for modal metaphors favoring a particular sense. Far from being arbitrary, such a penchant may (as we shall see) reflect a broad cultural bias for that sense, an association with a group which in a specific historical or social context has indulged or has been forced to privilege that sense, and/or an inclination towards values which that sense has been deemed to phenomenologically support or promote.

[1.7] Ironically, we may reveal more of ourselves by our general and our modal metaphors than by statements and sayings that are the products of more calculated deliberation. Insofar as metaphors are privy to our most profound thoughts and experiences, they may tap into cultural or personal truths of which we are not at first aware, and into notions of which we may not even approve. Calling a mental crisis a nervous "breakdown" may unwittingly manifest a modern tendency to regard the mind as a machine;40 calling an African American football player "a little monkey" may unwittingly manifest racism.41 In this context, metaphors operate as the "sonar" of our minds, revealing deeply submerged-but nonetheless fundamental-realities that we cannot or will not consciously acknowledge.

[1.8] As an integral part of our mentality, metaphors can also shape our thoughts and even our actions.42 Calling chess a battle (or hearing someone else call it a battle) certainly encourages me to conceive of it, however inaccurately, as a harsh, even potentially violent confrontation between grim-faced opponents. The psychological impact of the metaphor may be all the more powerful if I have had little or no previous experience with the game. The way I think about chess may in turn affect my behavior. In light of the metaphor, maybe I will decide to play, or maybe I will choose to do something less aggressive. If I do choose to play, the metaphor I used or heard might well influence how I play. For instance, if chess is a battle, an intimidating, combative strategy may seem appropriate. If the "battle" metaphor becomes popular, an entire culture may be led to the same conclusion, and play chess accordingly.

[1.9] Modal metaphors can have an especially strong impact on how we think and what we do. If, for example, I call "thought" itself "reflection," I am figuratively characterizing thought as a visual enterprise. Insofar as reflection literally presumes a visual subject, the metaphor may subtly encourage thinkers to believe that they should look for intellectual stimulation, rather than listen for it; in other words, the metaphor may affect their epistemological orientation. The same visual metaphor may alternatively imply that only individuals from visually biased backgrounds can properly engage in thought, prompting individuals from other traditions that prize other senses to be dismissed (or not to regard themselves) as legitimate or competent participants in intellectual inquiry. In this context, the "casual" choice of a "simple" metaphor may have profoundly divisive social implications. Describing thought as "reflection" may even induce thinkers to behave in a manner considered appropriate to a visual process: for example, the metaphor may suggest that thinkers should passively watch the world, rather than become actively engaged with it.

#### Oppression that occurs as a result of visual metaphors replicates the root causes of violence, and makes endless violence against difference inevitable

Roberts 2007 (Jeff, M.A., The Rhetorical Structure of Disability: Bridging the Gap Between What is ‘Spoken’ and What is ‘Said’ with Song - Over-Signifying with Personhood Against the Backdrop of Disease-Centric Discourse - Submitted to the Graduate Faculty of Baylor University in Partial Fulfillment of the Requirements for the Degree of Master of Arts. <https://beardocs.baylor.edu/bitstream/2104/5086/.../Jeff_Roberts_Masters.pdf>)

Until recently, human “disability” has been conceptually understood as an abnormal, unnatural, and problematic condition of either the mental or physical self. Located within the individual, disability detracts, disadvantages, incapacitates and prevents one from living a full, normal life. Being that disability has been understood as a diseased condition of the individual, it has often been rendered something to be regulated, and potentially “fixed” or “cured” by the higher knowledge and reason of modern medicine. With the emergence of “anti-psychiatry” and critical disability studies many of the fundamental assumptions of the historical development of “disability” came into question. Notions of “normalcy,” the location of disability within the individual, the priestly status of modern medicine as unquestionable, along with the claims of scientific rationality, objectivity and expert knowledge in which the medical model founds its regulatory jurisdiction, became the target of deconstruction. The goal of such inquiries was to improve the lives and status of people with disabilities by renouncing the social construction of disability as inherent within the “inferior” or “flawed” individual. These criticisms are also aimed at shielding individuals with disabilities from oppression and bio-political control by advancing alternative forms of knowledge and sets of understandings distinct and apart from the hegemonic medical model. Advocates and critical scholars advancing these perspectives help to create a better world for people with 2 disabilities by promoting equality, justice and individual autonomy, while also working to eliminate social stigmatization. Recently, many state actors have also embraced this spirit of justice; responding to the demands of people with disabilities by creating legislation mandating equal treatment of individuals throughout society, regardless of individual disability. These state actions represent a concrete and pragmatic attempt to better the lives of people with disabilities by removing the barriers that prevent equal access to the American dream. Unfortunately, while these actions may intend to secure a social world free of discrimination, often times they serve to perpetuate the same notions of injustice the policy was intended to combat. Recent history provides numerous examples of legislation intending to affirm the communal demands of people with disabilities, while discursively constructing these individuals according to a rhetorical structure of terminology which denies equality, reifies stigma, and mandates dehumanization. The rhetorical structure of disease-centric terminology deployed in these legislative texts places a primacy on the individuals’ disability, while rendering all other claims of identity and personhood a mere afterthought. Historically, examples of disease-centric rhetoric in legislation include the singular terms of “mongoloid,” “lunatic,” “retard,” “imbecile,” and “cripple.” More recently, legislative examples include the terms “disabled child,” “schizophrenic patient,” and the generic all inclusive “disabled people.” While modern examples of legislation avoiding disease-centric rhetoric in favor of the more empowering rhetorical structure “people-first language” can be found, such as the Americans with Disabilities Act of 1990, yet these examples are far from the textual norm in modern legislation.

The rhetoric surrounding disability, particularly as it is embodied in recent Congressional legislation, is an area ripe for criticism and study. The inherent social negativity and connotation of difference associated with the term “disability” itself, along with the ways in which that term is deployed to categorize individuals for no other reason than falling outside the social norms of a given time, circumscribes the rhetoric of disability within a unique sphere of power. Historically, the rhetoric of disability has exerted its power overtly as a justification for mass extermination of entire sections of a populationi; allowed for state sponsored forced sterilization in the name of social progressii; and has been actively deployed in an effort to link nearly all social minorities with defect and inferiority so to bolster legitimacy for their oppression. Given the propensity for the rhetoric of disability to play an integral role in violence and atrocity, how then is it possible to maintain an infinite commitment to creating a better world for people with disabilities while simultaneously viewing the legislation aimed at pragmatically achieving such a goal under a lens of strict scrutiny for rejecting dangerous rhetoric? How then would it be possible to overcome the gap between the dangers presented by disease-centric rhetoric in what is “spoken” in legislative texts, and still affirm what is “said” by those same texts attempting to make pragmatic gains for people with disabilities in the spirit of equality? This paper attempts to answer these questions through an examination of the rhetoric surrounding disability in its structure, deployment, and intent. Starting from social constructionist position embraced by many “anti-psychiatrists,” critical disability theorists and disability rights advocates, this paper investigates the texts of modern and historical legislation attempting to discover a method of advancing positive pragmatic actions while simultaneously removing the location of disability from the individual in which it rhetorically subsumes in terminology. This position concedes that the use of disease-centric rhetoric can be unconscious; or rather the deployment of such rhetoric generally is not intended to demean or dehumanize people with disabilities. In many instances, the “intent” is quite the opposite; individuals often deploy such rhetorical labels in an effort to affirm equality, without the knowledge that such rhetoric constructs the greatest blockade in achieving such a goal. This “blockade” is not a physical limitation upon pragmatic action, but rather an attitudinal barrier which eliminates the potential for full and equal participation in society. The National Collaborative on Workforce and Disability for Youth (2006) explains.

People with disabilities face many barriers and, like many minority groups, have fought for equal access “to education, to employment, to public facilities and services, to transportation, to housing, and to other resources needed to more fully realize their rights as citizens” (Tan, 1995, n.p.). The major barriers to achievement by people with disabilities in our society, however, continue to be attitudinal barriers, stereotypical thinking, and assumptions about what people can and cannot do. Stereotypes flagrantly and incorrectly limit the range of an individual’s ability. The truth is that the range of abilities of persons within any disability group is enormous. Attitudinal barriers are ideas, fears, and assumptions that impede meaningful communication between people with and without disabilities and prevent people with disabilities from participating fully in society. Most attitudinal barriers are passively learned; unlearning them takes effort and interaction (Miller, n.d., ch. 3). Labels and language have long reflected society’s views of disabilities as abnormal. Although this is changing, some people and institutions continue to focus on individuals’ disabilities rather than their abilities and by doing so foster segregation. In the media, people with disabilities have been portrayed as “broken” and treated with pity, scorn, sorrow, or anger. Or, on the other hand, they have been treated as though they had superpowers. Labels have often been used to define a person’s potential and value …

When we hear a person’s label, we (mistakenly) think we know something important about him, and we give great weight to the label, using it to determine how/where a person will be educated, what type of job he will/won’t have, where/how he’ll live, and more. In effect, a person’s future is often cast by others, based on the label. (n.p.)

Fueled by disease-centric rhetoric, the societal image of people with disabilities as “inferior” and “broken” fosters cultural attitudes of pity, anger, and ablest supremacy over people with disabilities. These attitudes create a world of inter-relationships predicated on viral difference and hatred. Within this matrix of interaction the other can never be authentically embraced in its infinity or manifest oneself in accordance to anything but its difference. The individual with a disability is not “monstrous” or “savage” within this world, for radical exoticism is overcome through the domestication of the other. “Difference is what destroys otherness (Baudrillard, 1993, p. 127);” all societal interactions involving people with disabilities become premised on “difference,” and the societal incorporation of such difference accepted out of pity and compassion. The rules governing this symbolic exchange of “structural interaction of difference” assume that there is a proper use of difference, and that otherness can be negotiated (Baudrillard, 1993). This type of acceptance never facilitates an ethical confrontation with the other, nor can it advance full and equal participation in society, for its viral nature only cause’s society itself to draw new lines of demarcation, erect new barriers to equality and find new claims to difference which justifies further segregation. Jean Baudrillard argues “there is no such thing as the proper use of difference (Baudrillard, 1993, p. 130),” and that efforts which attempt to “protect difference” offer no solutions, only serving to threaten communities which society labels as different with annihilation. Baudrillard (1993) further explains: 6 There is no such thing as the proper use of difference – a fact revealed not only by racism itself but also by all anti-racist and humanitarian efforts to promote and protect differences. Humanitarian ecumenism, the ecumenism of differences, is in a cul-de-sac: the cul-de-sac of the concept of the universal itself. The most recent illustration of this, in France, was the brouhaha over the wearing of headscarves for religious reasons by North African schoolgirls. All the rational arguments mustered in this connection turned out to be nothing but hypocritical attempts to get rid of the simple fact that no solution is to be found in any moral or political theory of difference. It is difference itself that is a reversible illusion… The risibility of our altruistic ‘understanding’ is rivaled only by the profound contempt it is designed to conceal. For ‘We respect the fact that you are different’ read: You people who are underdeveloped would do well to hang on to this distinction because it is all you have left’. (The signs of folklore and poverty are excellent markers of difference.) Nothing could be more contemptuous – or more contemptible – than this attitude, which exemplifies the most radical form of incomprehension that exists. It has nothing to do, however, with what Segalen calls ‘eternal incomprehensibility’. Rather, it is a product of eternal stupidity – of that stupidity which endures forever in its essential arrogance, feeding on the differentness of other people. Other cultures, meanwhile, have never laid claim to universality. Nor did they ever claim to be different – until difference was forcibly injected into them as part of a sort of cultural opium war. They live on the basis of their own singularity, their own exceptionality, on the irreducibility of their own rights and values. They find no comfort in the lethal illusion that all differences can be reconciled – an illusion that for them spells only annihilation. (pp. 131-132) Just as disease-centric discourse creates these attitudes, imageries and actions rooted in notions of viral difference and hatred, it seems that any action towards people with disabilities conveyed in disease-centric discourse is premised on a notion of viral difference. Viral difference manifests itself not only in the actions and attitudes stemming from disease-centric discourse, but also in the rhetorical structure of disease-centric discourse itself and its general deployment. Actions which place a primacy on difference and its domestication in the acts of “acceptance of difference” are often justified as acts of “compassion,” yet acts premised on such notions can never truly overcome difference, nor can they recognize and appreciate the alterity of the other necessary for ethical encounters. Deployment of disease-centric discourse represents and independent rhetorical act which, in the words of Emmanuel Levinas, “thematizes” disability as difference allowing difference to obscure alterity and unique otherness by “standing in” for the individual subject in all encounters. In other words, difference in terms of disability subsumes the entirety of the person by reducing the individual to a mere condition of difference, as Lois Shepherd (2006) explains: On the other hand, however, focusing on the condition carries the risk of what Levinas calls "thematization." If the condition stands in for the person in evoking the right ethical response, i.e., compassion, then the condition may stand in for the person in other respects as well. In other words, the condition is the person, and thus we need to know nothing more about the person than the existence of the condition . . . A compassionate response that focuses on the condition of a person in a way that permits us to see her in terms of a theme can result in unfair prejudice and discrimination. Even when less noxious results follow, such a response inappropriately shortcuts the more intense inquiry that is required to determine the needs and desires of that individual and can prevent the ethical response that is due . . . . . . A compassionate response that thematizes a person as disabled can cause an underestimation of what that person can achieve and can thereby cut off opportunities for success, expression, respect, and self-worth. It can also result in alienation of people with disabilities as others cannot see beyond the apparent physical condition. The emphasis that advocates for people with disabilities place on language captures this concern that the focus of attention is properly placed on the person rather than the condition; advocates encourage the use of terms such as "person with a disability" rather than "the disabled person" so that the person comes first. (para.8.) Founding action towards people with disabilities upon notions of difference, placing a primacy on difference particularly in the context of incorporation, domestication, and acceptance of such difference, dooms the struggle for equality to failure. “Over recent centuries all forms of violent otherness have been incorporated, willingly or under threat of force, into a discourse of difference which simultaneously implies inclusion and exclusion, recognition and discrimination (Baudrillard, 1993, p. 8 129).” Once the Native American “savage” became “accepted” under U.S. law as “human,” or rather a different type of human, it was not long until viral hatred forced new boundaries of difference to be erected, and segregation of such difference to be enacted in the form of the reservation. Where the “savage” or “monster” is never understood, or assimilated, remaining radically exotic to the oppressive guise of society, when “accepted” by society on the basis of “difference” viral racism allows only two options for the future: assimilation or extermination (Baudrillard, 1993). Similarly, modern medicine has facilitated society with an understanding of disability, allowing it to accept the “different” or “disabled” person under law as “human,” more specifically a “disabled human” in which is different from “normal” individuals, but none the less similar. “Madness, once its exclusionary status had been revoked, was caught up in the far subtler toils of psychology (Baudrillard, 1993, p. 129).” As soon as society began to understand and consequently attempt to “accept” the “monster” other, the other traded its quality of foreign “monsterness” for qualities of “feebleness,” with the social acceptance of the others difference, the “monster” soon became the “mongoloid.” “Difference” annihilated the subaltern subject by making all that was foreign and radically exotic within easy reach of societal understanding. With a compassion rooted in pity, and fear founded upon difference, society became locked into a mode of interaction with disability, and the individuals’ disability located itself within, which mandated oppression in the spirit of viral hatred. Just as the Native was forced out of “normal” society into the state of exception of the reservation, the “mongoloid” (“lunatic” or “imbecile”) was stripped of all possessions and forced into the state of exception of the asylum. The “feeble” were forcefully 9 sterilized by the state “for their own good,” and for the benefit of society as a whole, while even today pregnant women labeled “mentally ill” are subject to being chained to hospital beds while physicians perform court-ordered cesarean sections against their will, under Supreme Court precedent pertaining to the compelling states interest in the life of the fetus and the health of the mother (Ehrenreich, 1993). The “discourse of difference” found within the rhetoric of disability continually multiplies the signs of difference with each medical advancement. Likewise, these “advancements” increase claims of knowledge and understanding over “disability,” encouraging the incorporation of these differences into the system of regulated exchange of homogenized difference through acts of compassion and acceptance. The viral nature of difference guarantees increased efforts of segregation, assimilation, and extermination with each glimmer of similarity recognized. Viral difference, similar to most viruses, operates as “a self-replicating code” which for survival feeds off the living host in which it attempts to destroy. When difference becomes the motivating factor in actions of acceptance and compassion, viral difference must replicate itself, often mutating forms, in the production of more difference which seeks to destroy any similarity created between the self and other (Baudrillard, 1993). Just as health provides energy for viral sickness, similarity provides impetus for viral difference, often when the different other becomes too similar to one’s self the individual self must create new forms of difference in order to maintain the identity of the self (Baudrillard, 1993). Congressional legislation aimed at achieving equality for people with disabilities represents a fatal strategy when deploying the disease-centric rhetoric of viral difference. This rhetorical “strategy” of the congressional act is generally unconscious and unintended, while it is “fatal” in respect to its ironic and self defeating potential; the language used to compel action towards equality is simultaneously the same language which creates attitudinal barriers blocking social equality for the group the act intends to help, people with disabilities.