## 1NC

### Off

**Text: We advocate the entirety of the aff sans the plan**

**It’s net beneficial – it solves better because it doesn’t start at the place of the state or include the pretended fiated action we will get links to.**

**It’s legit – they get 100% of the plan to generate offense versus the cp, this is a necessary test against critical affirmatives.**

**There is no internal link between the plan text and the solvency.**

**Schlag, 90** (Pierre Schlag, professor of law@ univ. Colorado, stanford law review, november, page lexis)

In fact, **normative legal thought is so much in a hurry that it will tell you what to do even though there is not the slightest chance that you might actually be in a position to do it.** For instance, when was the last time you were in a position to put the difference principle n31 into effect, or to restructure [\*179] the doctrinal corpus of the first amendment? "In the future, we should. . . ." When was the last time you were in a position to rule whether judges should become pragmatists, efficiency purveyors, civic republicans, or Hercules surrogates? **Normative legal thought doesn't seem overly concerned with such worldly questions about the character and the effectiveness of its own discourse. It just goes along and proposes, recommends, prescribes, solves, and resolves. Yet despite its obvious desire to have worldly effects, worldly consequences, normative legal thought remains seemingly unconcerned that for all practical purposes, its only consumers are legal academics** and perhaps a few law students -- **persons who are virtually never in a position to put any of its wonderful normative advice into effect.**

**The assumption of 1AC solvency papers over the rough edges of the world with warm and fuzzy normative legal talk, emotionally disconnecting them from the implications of the speech act**

**Delgado 91** (richard delgado , colorado law professor, 139 pa. L. Rev. 933, april)

But what is the cash value of all this priest-talk in the law reviews, in the classrooms of at least the "better" schools, and in the opinions of at least some judges? Are normativos better than other people? **Are we better off for engaging in normative talk, either as speakers or listeners?** Pierre **Schlag,** for example, **has described normativity as a zero -- as a vacuous, self-referential system of talk, all** [\*954] **form and no substance, meaning nothing, and about itself.** n82 **This description may be too generous. Normativity may be more than a harmless tic prevalent only in certain circles.** 1. Permission to Ignore Suffering The history of organized religion shows that **intense immersion in at least certain types of normative system is no guarantee against cruelty, intolerance or superstition.** n83 In modern times, social scientists have tried to find a correlation between religious belief and altruistic behavior. In most studies, the correlation is nonexistent or negative. In one study, seminary students were observed as they walked past a well-dressed man lying moaning on the sidewalk. n84 Most ignored the man, even though they had just heard a sermon about the Good Samaritan. The proportion who stopped to offer aid was lower than that of passersby in general. The researchers, commenting on this and other studies of religion and helping behavior, hypothesized that religious people feel less need to act because of a sense that they are "chosen" people. n85 I believe this anesthetizing effect extends beyond religion. We confroxnt a starving beggar and immediately translate the concrete duty we feel into a normative (i.e., abstract) question. And once we see the beggar's demand in general, systemic terms, it is easy for us to pass him by without rendering aid. n86 Someone else, perhaps society (with my tax dollars), will take care of that problem. **Normativity** thus **enables us to ignore and smooth over the rough edges of our world, to tune out or redefine what would otherwise make a claim on us.** In the legal system, the clearest [\*955] examples of this are found in cases where the Supreme Court has been faced with subsistence claims.

**They are more interested in playing hermeneutic games than engaging in politics, the preoccupation with pretending to be policymakers traps them in a spectator position and bars them from recognizing the bureaucratic violence of legal praxis.**

**Schlag, 90** (Pierre Schlag, professor of law@ univ. Colorado, stanford law review, november, page lexis)

All of this can seem very funny. That's because it is very funny. It is also deadly serious. It is deadly serious, because all this **normative legal thought**, as Robert Cover explained, **takes place in a field of pain and death**. n56 And in a very real sense Cover was right. Yet as it takes place, **normative legal thought is playing language games -- utterly oblivious to the character of the language games it plays, and thus, utterly uninterested in considering its own rhetorical and political contributions (or lack thereof) to the field of pain and death.** **To be sure, normative legal thinkers are often genuinely concerned with reducing the pain and the death**. However, the problem is not what normative legal thinkers do with normative legal thought, but what normative legal thought does with normative legal thinkers. **What is missing in normative legal thought is any serious questioning, let alone tracing, of the relations that the practice, the rhetoric, the routine of normative legal thought have** (or do not have) **to the field of pain and death.** And there is a reason for that: Normative legal thought misunderstands its own situation. Typically, normative legal thought understands itself to be outside the field of pain and death and in charge of organizing and policing that field. It is as if the action of normative legal thought could be separated from the background field of pain and death. This theatrical distinction is what allows normative legal thought its own self-important, self-righteous, self-image -- its congratulatory sense of its own accomplishments and effectiveness. All this self-congratulation works very nicely so long as normative legal [\*188] thought continues to imagine itself as outside the field of pain and death and as having effects within that field. n57 Yet it is doubtful this image can be maintained. It is not so much the case that normative legal thought has effects on the field of pain and death -- at least not in the direct, originary way it imagines. Rather, it is more the case that **normative legal thought is the pattern, is the operation of the bureaucratic distribution and the institutional allocation of the pain and the death.** n58 And apart from the leftover ego-centered rationalist rhetoric of the eighteenth century (and our routine), there is nothing at this point to suggest that we, as legal thinkers, are in control of normative legal thought. The problem for us, as legal thinkers, is that **the normative appeal of normative legal thought systematically turns us away from recognizing that normative legal thought is grounded on an utterly unbelievable re-presentation of the field it claims to describe and regulate. The problem for us is that normative legal thought, rather than assisting in the understanding of present political and moral situations, stands in the way. It systematically reinscribes its own aesthetic -- its own fantastic understanding of the political and moral scene.** n59Until normative legal thought begins to deal with its own paradoxical postmodern rhetorical situation, **it will remain something of an irresponsible enterprise. In its rhetorical structure, it will continue to populate the legal academic world with individual humanist subjects who think themselves empowered Cartesian egos, but who are largely the manipulated constructions of bureaucratic practices** -- academic and otherwise.

### Off

Since World War I, violence has been normalized by the globalization of the state of exception when the law justifies its own suspension, transforming itself into a killing machine, and ushering in global civil war. Return to the legal normal authorizes such violent international aggression

Agamben, 5. Giorgio Agamben, famous philosopher, The State of Exception, pg. 85

It is perhaps possible at this point to look back upon the path trav- eled thus far and draw some provisional conclusions from our investi- gation of the state of exception. The juridical system of the West appears as a double structure, formed by two heterogeneous yet coordinated el- ements: one that is normative and juridical in the strict sense (which we can for convenience inscribe under the rubric potestas) and one that is anomic and metajuridical (which we can call by the name auctoritas).¶ The normative element needs the anomic element in order to be ap- plied, but, on the other hand, auctoritas can assert itself only in the val- idation or suspension of potestas. Because it results from the dialectic between these two somewhat antagonistic yet functionally connected elements, the ancient dwelling of law is fragile and, in straining to main- tain its own order, is always already in the process of ruin and decay. The state of exception is the device that must ultimately articulate and hold together the two aspects of the juridico-political machine by instituting a threshold of undecidability between anomie and nomos, between life and law, between auctoritas and potestas. It is founded on the essential fiction according to which anomie (in the form of auctoritas, living law, or the force of law) is still related to the juridical order and the power to suspend the norm has an immediate hold on life. As long as the two el- ements remain correlated yet conceptually, temporally, and subjectively distinct (as in republican Rome’s contrast between the Senate and the people, or in medieval Europe’s contrast between spiritual and temporal powers) their dialectic—though founded on a fiction—can nevertheless function in some way. But when they tend to coincide in a single per- son, when the state of exception, in which they are bound and blurred together, becomes the rule, then the juridico-political system transforms itself into a killing machine.¶ 6.10 The aim of this investigation—in the urgency of the state of ex- ception “in which we live”—was to bring to light the fiction that governs this arcanum imperii [secret of power] par excellence of our time. What the “ark” of power contains at its center is the state of exception—but this is essentially an empty space, in which a human action with no re- lation to law stands before a norm with no relation to life.¶ This does not mean that the machine, with its empty center, is not effective; on the contrary, what we have sought to show is precisely that it has continued to function almost without interruption from World War One, through fascism and National Socialism, and up to our own time. Indeed, the state of exception has today reached its maximum worldwide deployment. The normative aspect of law can thus be obliter- ated and contradicted with impunity by a governmental violence that— while ignoring international law externally and producing a permanent state of exception internally—nevertheless still claims to be applying the law.¶ Of course, the task at hand is not to bring the state of exception back within its spatially and temporally defined boundaries in order to then reaffirm the primacy of a norm and of rights that are themselves ulti- mately grounded in it. From the real state of exception in which we live, it is not possible to return to the state of law [stato di diritto], for at issue now are the very concepts of “state” and “law.” But if it is possible to attempt to halt the machine, to show its central fiction, this is because between violence and law, between life and norm, there is no substantial articulation. Alongside the movement that seeks to keep them in rela- tion at all costs, there is a countermovement that, working in an inverse direction in law and in life, always seeks to loosen what has been artifi- cially and violently linked. That is to say, in the field of tension of our culture, two opposite forces act, one that institutes and makes, and one that deactivates and deposes. The state of exception is both the point of their maximum tension and—as it coincides with the rule—that which threatens today to render them indiscernible. To live in the state of ex- ception means to experience both of these possibilities and yet, by always separating the two forces, ceaselessly to try to interrupt the working of the machine that is leading the West toward global civil war.

Refuse attempts to reform the legal system and doom it to its own nihilistic destruction—we must refuse all conceptual apparatuses of capture

Prozorov, 10 Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1065

In a later work, Agamben generalizes this logic and transforms it into a basic ethical imperative of his work: ‘[There] is often nothing reprehensible about the individual behavior in itself, and it can, indeed, express a liberatory intent. What is disgraceful – both politically and morally – are the apparatuses which have diverted it from their possible use. We must always wrest from the apparatuses – from all apparatuses – the possibility of use that they have captured.’32 As we shall discuss in the following section, this is to be achieved by a subtraction of ourselves from these apparatuses, which leaves them in a jammed, inoperative state. What is crucial at this point is that the apparatuses of nihilism themselves prepare their demise by emptying out all positive content of the forms-of-life they govern and increasingly running on ‘empty’, capable only of (inflict- ing) Death or (doing) Nothing.¶ On the other hand, this degradation of the apparatuses illuminates the ‘inoperosity’ (worklessness) of the human condition, whose originary status Agamben has affirmed from his earliest works onwards.33 By rendering void all historical forms-of-life, nihi- lism brings to light the absence of work that characterizes human existence, which, as irreducibly potential, logically presupposes the lack of any destiny, vocation, or task that it must be subjected to: ‘Politics is that which corresponds to the essential inoperability of humankind, to the radical being-without-work of human communities. There is pol- itics because human beings are argos-beings that cannot be defined by any proper oper- ation, that is, beings of pure potentiality that no identity or vocation can possibly exhaust.’34¶ Having been concealed for centuries by religion or ideology, this originary inoperos- ity is fully unveiled in the contemporary crisis, in which it is manifest in the inoperative character of the biopolitical apparatuses themselves, which succeed only in capturing the sheer existence of their subjects without being capable of transforming it into a positive form-of-life:¶ [T]oday, it is clear for anyone who is not in absolutely bad faith that there are no longer historical tasks that can be taken on by, or even simply assigned to, men. It was evident start- ing with the end of the First World War that the European nation-states were no longer capa- ble of taking on historical tasks and that peoples themselves were bound to disappear.35¶ Agamben’s metaphor for this condition is bankruptcy: ‘One of the few things that can be¶ declared with certainty is that all the peoples of Europe (and, perhaps, all the peoples of the Earth) have gone bankrupt’.36 Thus, the destructive nihilistic drive of the biopolitical machine and the capitalist spectacle has itself done all the work of emptying out positive forms-of-life, identities and vocations, leaving humanity in the state of destitution that Agamben famously terms ‘bare life’. Yet, this bare life, whose essence is entirely con- tained in its existence, is precisely what conditions the emergence of the subject of the coming politics: ‘this biopolitical body that is bare life must itself be transformed into the site for the constitution and installation of a form-of-life that is wholly exhausted in bare life and a bios that is only its own zoe.’37¶ The ‘happy’ form-of-life, a ‘life that cannot be segregated from its form’, is nothing but bare life that has reappropriated itself as its own form and for this reason is no longer separated between the (degraded) bios of the apparatuses and the (endangered) zoe that functions as their foundation.38 Thus, what the nihilistic self-destruction of the appara- tuses of biopolitics leaves as its residue turns out to be the entire content of a new form-of-life. Bare life, which is, as we recall, ‘nothing reprehensible’ aside from its con- finement within the apparatuses, is reappropriated as a ‘whatever singularity’, a being that is only its manner of being, its own ‘thus’.39 It is the dwelling of humanity in this irreducibly potential ‘whatever being’ that makes possible the emergence of a generic non-exclusive community without presuppositions, in which Agamben finds the possi- bility of a happy life.¶ [If] instead of continuing to search for a proper identity in the already improper and sense- less form of individuality, humans were to succeed in belonging to this impropriety as such, in making of the proper being-thus not an identity and individual property but a singularity without identity, a common and absolutely exposed singularity, then they would for the first time enter into a community without presuppositions and without subjects.40¶ Thus, rather than seek to reform the apparatuses, we should simply leave them to their self-destruction and only try to reclaim the bare life that they feed on. This is to be achieved by the practice of subtraction that we address in the following section.¶

The impact is the sovereign’s ability to exploit fundamental flaws in the legal system and continue the global biopolitical war—the ballot should side with the global countermovement against such violence

Gulli, 13 Bruno Gulli, professor of history, philosophy, and political science at Kingsborough College in New York, “For the critique of sovereignty and violence,” <http://academia.edu/2527260/For_the_Critique_of_Sovereignty_and_Violence>, pg. 1

We live in an unprecedented time of crisis. The violence that characterized the twentieth century, and virtually all known human history before that, seems to have entered the twenty-first century with exceptional force and singularity. True, this century opened with the terrible events of September 11. However, September 11 is not the beginning of history. Nor are the histories of more forgotten places and people, the events that shape those histories, less terrible and violent – though they may often be less spectacular. The singularity of this violence, this paradigm of terror, does not even simply lie in its globality, for that is something that our century shares with the whole history of capitalism and empire, of which it is a part. Rather, it must be seen in the fact that terror as a global phenomenon has now become self-conscious. Today, the struggle is for global dominance in a singularly new way, and war –regardless of where it happens—is also always global. Moreover, in its self-awareness, terror has become, more than it has ever been, an instrument of racism. Indeed, what is new in the singularity of this violent struggle, this racist and terrifying war, is that in the usual attempt to neutralize the enemy, there is a cleansing of immense proportion going on. To use a word which has become popular since Michel Foucault, it is a biopolitical cleansing. This is not the traditional ethnic cleansing, where one ethnic group is targeted by a state power – though that is also part of the general paradigm of racism and violence. It is rather a global cleansing, where the sovereign elites, the global sovereigns in the political and financial arenas (capital and the political institutions), in all kinds of ways target those who do not belong with them on account of their race, class, gender, and so on, but above all, on account of their way of life and way of thinking. These are the multitudes of people who, for one reason or the other, are liable for scrutiny and surveillance, extortion (typically, in the form of over- taxation and fines) and arrest, brutality, torture, and violent death. The sovereigns target anyone who, as Giorgio Agamben (1998) shows with the figure of homo sacer, can be killed without being sacrificed – anyone who can be reduced to the paradoxical and ultimately impossible condition of bare life, whose only horizon is death itself. In this sense, the biopolitical cleansing is also immediately a thanatopolitical instrument.¶ The biopolitical struggle for dominance is a fight to the death. Those who wage the struggle to begin with, those who want to dominate, will not rest until they have prevailed. Their fanatical and self-serving drive is also very much the source of the crisis investing all others. The point of this essay is to show that the present crisis, which is systemic and permanent and thus something more than a mere crisis, cannot be solved unless the struggle for dominance is eliminated. The elimination of such struggle implies the demise of the global sovereigns, the global elites – and this will not happen without a global revolution, a “restructuring of the world” (Fanon 1967: 82). This must be a revolution against the paradigm of violence and terror typical of the global sovereigns. It is not a movement that uses violence and terror, but rather one that counters the primordial terror and violence of the sovereign elites by living up to the vision of a new world already worked out and cherished by multitudes of people. This is the nature of counter-violence: not to use violence in one’s own turn, but to deactivate and destroy its mechanism. At the beginning of the modern era, Niccolò Machiavelli saw the main distinction is society in terms of dominance, the will to dominate, or the lack thereof. Freedom, Machiavelli says, is obviously on the side of those who reject the paradigm of domination:¶ [A]nd doubtless, if we consider the objects of the nobles and of the people, we must see that the first have a great desire to dominate, whilst the latter have only the wish not to be dominated, and consequently a greater desire to live in the enjoyment of liberty (Discourses, I, V).¶ Who can resist applying this amazing insight to the many situations of resistance and revolt that have been happening in the world for the last two years? From Tahrir Square to Bahrain, from Syntagma Square and Plaza Mayor to the streets of New York and Oakland, ‘the people’ speak with one voice against ‘the nobles;’ the 99% all face the same enemy: the same 1%; courage and freedom face the same police and military machine of cowardice and deceit, brutality and repression. Those who do not want to be dominated, and do not need to be governed, are ontologically on the terrain of freedom, always-already turned toward a poetic desire for the common good, the ethics of a just world. The point here is not to distinguish between good and evil, but rather to understand the twofold nature of power – as domination or as care.¶ The biopolitical (and thanatopolitical) struggle for dominance is unilateral, for there is only one side that wants to dominate. The other side –ontologically, if not circumstantially, free and certainly wiser—does not want to dominate; rather, it wants not to be dominated. This means that it rejects domination as such. The rejection of domination also implies the rejection of violence, and I have already spoken above of the meaning of counter-violence in this sense. To put it another way, with Melville’s (2012) Bartleby, this other side “would prefer not to” be dominated, and it “would prefer not to” be forced into the paradigm of violence. Yet, for this preference, this desire, to pass from potentiality into actuality, action must be taken – an action which is a return and a going under, an uprising and a hurricane. Revolution is to turn oneself away from the terror and violence of the sovereign elites toward the horizon of freedom and care, which is the pre- existing ontological ground of the difference mentioned by Machiavelli between the nobles and the people, the 1% (to use a terminology different from Machiavelli’s) and the 99%. What is important is that the sovereign elite and its war machine, its police apparatuses, its false sense of the law, be done with. It is important that the sovereigns be shown, as Agamben says, in “their original proximity to the criminal” (2000: 107) and that they be dealt with accordingly. For this to happen, a true sense of the law must be recuperated, one whereby the law is also immediately ethics. The sovereigns will be brought to justice. The process is long, but it is in many ways already underway. The recent news that a human rights lawyer will lead a UN investigation into the question of drone strikes and other forms of targeted killing (The New York Times, January 24, 2013) is an indication of the fact that the movement of those who do not want to be dominated is not without effect. An initiative such as this is perhaps necessarily timid at the outset and it may be sidetracked in many ways by powerful interests in its course. Yet, even positing, at that institutional level, the possibility that drone strikes be a form of unlawful killing and war crime is a clear indication of what common reason (one is tempted to say, the General Intellect) already understands and knows. The hope of those who “would prefer not to” be involved in a violent practice such as this, is that those responsible for it be held accountable and that the horizon of terror be canceled and overcome. Indeed, the earth needs care. And when instead of caring for it, resources are dangerously wasted and abused, it is imperative that those who know and understand revolt –and what they must revolt against is the squandering and irresponsible elites, the sovereign discourse, whose authority, beyond all nice rhetoric, ultimately rests on the threat of military violence and police brutality¶

### Case

**Removing Cuba from the list is justified by normalization of economic relations, incorporating them into globalization**

Metzker, 13

/ Jared, “Pressure Building for U.S. to Remove Cuba from ‘Terror Sponsor’ List” IPS http://www.ipsnews.net/2013/06/pressure-building-for-u-s-to-remove-cuba-from-terror-sponsor-list/

Experts here are stepping up calls for the U.S. government to remove Cuba from an official list of “state sponsors of terrorism”, arguing that the country’s presence on the list is anachronistic and makes neither legal nor political sense. The calls come just weeks after the U.S. State Department, which oversees the “state sponsors” list, released an annual report on terrorism. Its section regarding Cuba varied only slightly from that of the previous year, disappointing those who had hoped for a step in the direction of normalisation of U.S.-Cuba relations. “At a time when the U.S. is best positioned to help facilitate change in the island and to take advantage of the changes inside the country, this continued inclusion is actually an obstacle to taking advantage of that window of opportunity,” Tomas Bilbao, executive director of the Cuba Study Group, said Tuesday at a panel discussion at the Centre for Strategic and International Studies (CSIS), a think tank here. Bilbao noted the continued influence of a “shrinking minority” of anti-Cuba hardliners in the United States who fervently oppose Cuba’s removal from the list, as well as a lack of political will on the part of U.S. policymakers to square off with that minority. "[Delisting Cuba] would help Cubans lead more prosperous and independent lives." -- Sarah Stephens Nonetheless, he asserted that the time is ripe for the United States to take Cuba off the list and prioritise helping the Cuban people over harming the Cuban regime. President Barack Obama’s administration has overseen some notable policy shifts, such as a relaxation of laws restricting travel by U.S. citizens with family in Cuba. Certain realities have also been changing within Cuba, including the abdication of Fidel Castro from power, which make friendlier policies toward the island nation more feasible. Sarah Stephens, executive director of the Centre for Democracy in the Americas, a U.S. organisation that promotes reconciliation with Cuba, told IPS that delisting Cuba now would “enable the U.S. to support Cuba’s drive to update its economic model, make it easier to facilitate trade and easier for Cuba to access high technology items”. “Doing so,” she said, “would in turn help Cubans lead more prosperous and independent lives.

Economic engagement is a vehicle for neoliberal expansion – the aff is a tool for security interests and economic exploitation of Latin America – turns case

Jacobs 4 (Jamie Elizabeth, Assistant Prof of Polisci at West Virginia U, "Neoliberalism and Neopanamericanism: The View from Latin America," Latin American Politics & Society 46.4 (2004) 149-152, MUSE)

The advance of neoliberalism suffers no shortage of critics, both from its supporters who seek a greater balance in the interests of North and South, and from its opponents who see it as lacking any real choice for developing states. The spread of neoliberalism is viewed by its strongest critics as part of the continuing expression of Western power through the mechanisms of globalization, often directly linked to the hegemonic power of the United States. Gary Prevost and Carlos Oliva Campos have assembled a collection of articles that pushes this debate in a somewhat new direction. This compilation addresses the question from a different perspective, focusing not on the neoliberal process as globalization but on neoliberalism as the new guise of panamericanism, which emphasizes a distinctly political overtone in the discussion. The edited volume argues that neoliberalism reanimates a system of relations in the hemisphere that reinforces the most negative aspects of the last century's U.S.-dominated panamericanism. The assembled authors offer a critical view that places neoliberalism squarely in the realm of U.S. hegemonic exploitation of interamerican relations. This volume, furthermore, articulates a detailed vision of the potential failures of this approach in terms of culture, politics, security, and economics for both North and South. Oliva and Prevost present a view from Latin America that differs from that of other works that emphasize globalization as a general or global process. This volume focuses on the implementation of free market capitalism in the Americas as a continuation of the U.S. history of hegemonic control of the hemisphere. While Oliva and Prevost and the other authors featured in this volume point to the changes that have altered global relations since the end of the Cold War—among them an altered balance of power, shifting U.S. strategy, and evolving interamerican relations—they all view the U.S. foreign policy of neoliberalism and economic integration essentially as old wine in new bottles. As such, old enemies (communism) are replaced by new (drugs and terrorism), but the fear of Northern domination of and intervention in Latin America remains. Specifically, Oliva and Prevost identify the process through which "economics had taken center stage in interamerican affairs." They [End Page 149] suggest that the Washington Consensus—diminishing the state's role in the economy, privatizing to reduce public deficits, and shifting more fully to external markets—was instead a recipe for weakened governments susceptible to hemispheric domination by the United States (xi). The book is divided into two main sections that emphasize hemispheric and regional issues, respectively. The first section links more effectively to the overall theme of the volume in its chapters on interamerican relations, culture, governance, trade, and security. In the first of these chapters, Oliva traces the evolution of U.S. influence in Latin America and concludes that, like the Monroe Doctrine and Manifest Destiny in the past, the prospect of hemispheric economic integration will be marked by a dominant view privileging U.S. security, conceptualized in transnational, hemispheric terms, that is both asymmetrical and not truly integrated among all members. In this context, Oliva identifies the free trade area of the Americas (FTAA) as "an economic project suited to a hemispheric context that is politically favorable to the United States" (20). The chapters in this section are strongest when they focus on the political aspects of neoliberalism and the possible unintended negative consequences that could arise from the neoliberal program. Carlos Alzugaray Treto draws on the history of political philosophy, traced to Polanyi, identifying ways that social inequality has the potential to undermine the stable governance that is so crucial a part of the neoliberal plan. He goes on to point out how this potential for instability could also generate a new period of U.S. interventionism in Latin America. Treto also analyzes how the "liberal peace" could be undermined by the "right of humanitarian intervention" in the Americas if the NATO intervention in Yugoslavia served as a model for U.S. involvement in the hemisphere. Hector Luis Saint-Pierre raises the issue of "democratic neoauthoritarianism," responsible for "restricting citizenship to the exercise of voting, limiting its voice to electoral polls of public opinion, restraining human rights to consumer's rights, [and] shutting down spaces to the citizens' participation" (116). While these critiques are leveled from a structuralist viewpoint, they often highlight concerns expressed from other theoretical perspectives and subfields (such as the literature on citizenship and participation in the context of economic integration). These chapters also emphasize the way inattention to economic, social, and political crisis could damage attempts at integration and the overall success of the neoliberal paradigm in the Americas. In general, the section on hemispheric issues offers a suspicious view of the U.S. role in promoting integration, arguing that in reality, integration offers a deepening of historical asymmetries of power, the potential to create new justifications for hegemonic intervention, and the further weakening of state sovereignty in the South. [End Page 150]

Causes extinction and turns the case

Deutsch 2009

/Judith, president, Science for Peace. Member of Canadian psychoanalytic society, “Pestilence, Famine, War, Neoliberalism, and Premature Deaths,” *Peace Magazine*, http://peacemagazine.org/archive/v25n3p18.htm/

At present, threats to human existence come from at least four directions: climate change with its consequences of catastrophic climate events and of drastic water and food shortages; from nuclear war; from pandemics; from the severe impoverishment and destruction of society that is a result of neo-liberal restructuring. All are due to human error. All are preventable. But the time factor is most crucial around climate change. The lack of attention to the time scale is tantamount to believing that "it can't happen here."¶ Currently, most attempts to counter these dangers address the issues in isolation even though the main perpetrators implement a unified, relatively coherent programme that unites these threats. Neo-liberal plutocrats are the controlling shareholders of the large agri-business, weapons, water privatization, pharmaceutical (anti national health care), mining, non-renewable energy companies. It is their economic practices that decimate water resources, deplete soil, pollute air, and increase greenhouse gas emissions. The culpable individuals, their think tanks, the supportive government bureaucracies, and the specific methods of control are well-documented in a number of recent works.1¶ From recent history it is readily apparent that mass extinction "can happen here." A similar confluence of climate events and exploitive socio-economic re-structuring occurred in the late-Victorian period. Retrospective statistical studies established that worldwide droughts between 1876 and 1902 were caused by El Nino weather events. Based on the British Empire's laissez-faire approach to famine that enjoined against state "interference" in the for-profit trade in wheat, between 13 million and 29 million people died in India alone.¶ True to the precepts of liberalism, the British converted small subsistence farms in India into large scale monocrop farming for export on a world market. The new globally integrated grain trade meant that disturbances in distant parts of the world affected Indian farmers. Advances in technology actually made things worse, for steam-driven trains were used to transport grains to England while locals starved, and telegraph communication was used to process international monetary transactions that destroyed local communities. Gone were the traditional social institutions for managing food shortages and hardship.¶ The Victorian world view also bequeathed us the myth of the inferior Third World and denial of British responsibility for the de-development of tropical countries. Mike Davis points out the compelling evidence that South Indian laborers had higher earnings than their British counterparts in the 18th century and lived lives of greater financial security, including better diets and lower unemployment. "If the history of British rule in India were to be condensed into a single fact, it is this: there was no increase in India's per capita income from 1757 to 1947. Indeed, in the last half of the nineteenth century [due to colonial structural adjustment], income probably declined by more than 50% There was no economic development at all in the usual sense of the term."( Davis, p. 311).¶ In today's world, neo-liberalism continues to increase global misery and poverty and the dehumanization and invisibility of millions of "warehoused" people. Whatever conditions increase poverty also increase premature deaths. In the US, a 1% rise in unemployment increases the mortality rate by 2%, homicides and imprisonments by 6%, and infant mortality by 5%. The 225 richest individuals worldwide have a combined wealth of over $1 trillion, equal to the annual income of the poorest 47% of the world's population, or 2.5 billion people. By comparison, it is estimated that the additional cost of achieving and maintaining universal access to basic education for all, reproductive health care for all women, adequate food for all and safe water and sanitation for all is roughly $40 billion a year. This is less than 4% of the combined wealth of these 225 richest people.2¶ NEO-LIBERALISM¶ Neo-liberal policies have mandated the destruction of the social safety net that would be the lifesaver in climate disaster, epidemics, and war. The International Monetary Fund has required countless countries to dismantle public education, health, water, and sanitation infrastructure. Neo-liberalism strenuously opposes government intervention on behalf of the common good while hypocritically and deceptively protecting narrow class interests and investments in the military, non-renewable energy, privatized health care.¶ The powerful and wealthy few control the military-industrial complex, surveillance, and the media. The connections with climate change are manifold. Already there is military preparedness for the potential impacts on peace and security posed by climate change -- not to help victims but to keep refugees out. Ominously, there are now overt racist overtones to the discussion of "environmental refugees" and the closing of borders. The model of response to disasters is most likely Hurricane Katrina, namely, protection of the wealthy and outright cruelty to the poor.¶ Wars are tremendously costly to the public but highly profitable to powerful elites. "The arms trade has expanded by more than 20% worldwide in the past five years" (The Guardian Weekly 01.05.09, p. 11). The military itself emits enormous amounts of greenhouse gases and brutally protects the extractive industries of the wealthy. There are innumerable unreported incidents: In May 2009, alone, the Nigerian army razed villages in the oil-rich Niger delta to protect oil companies, killing many civilians; in Papua New Guinea, 200 heavily armed soldiers and police were sent to the Barrick Gold Porgera area to destroy indigenous villages. In the 20th century, it is estimated that as many as 360 million people died prematurely due to state terrorism--"terrorism from above."

## 2NC – Agamben

### 2NC ROB

The critique allows us to enter into a practice of studying the law for more than just ends—it is part of a slow unraveling of normative legality that will create a better vocabulary to discuss sovereign violence

Agamben 05. Giorgio Agamben, famous philosopher, The State of Exception, pg. 63

In the Kafka essay, the enigmatic image of a law that is studied but no longer practiced corresponds, as a sort of remnant, to the unmasking of mythico-juridical violence effected by pure violence. There is, therefore, still a possible figure of law after its nexus with violence and power has been deposed, but it is a law that no longer has force or application, like the one in which the “new attorney,” leafing through “our old books,” buries himself in study, or like the one that Foucault may have had in mind when he spoke of a “new law” that has been freed from all disci- pline and all relation to sovereignty.¶ What can be the meaning of a law that survives its deposition in such a way? The difficulty Benjamin faces here corresponds to a problem that can be formulated (and it was effectively formulated for the first time in primitive Christianity and then later in the Marxian tradition) in these terms: What becomes of the law after its messianic fulfillment? (This is the controversy that opposes Paul to the Jews of his time.) And what becomes of the law in a society without classes? (This is precisely the de- bate between Vyshinsky and Pashukanis.) These are the questions that Benjamin seeks to answer with his reading of the “new attorney.” Obvi- ously, it is not a question here of a transitional phase that never achieves its end, nor of a process of infinite deconstruction that, in maintain- ing the law in a spectral life, can no longer get to the bottom of it. The decisive point here is that the law—no longer practiced, but studied— is not justice, but only the gate that leads to it. What opens a passage toward justice is not the erasure of law, but its deactivation and inactivity [inoperosità]—that is, another use of the law. This is precisely what the force-of-law (whichkeepsthelawworking[inopera]beyonditsformal suspension) seeks to prevent. Kafka’s characters—and this is why they interest us—have to do with this spectral figure of the law in the state of exception; they seek, each one following his or her own strategy, to “study” and deactivate it, to “play” with it.¶ One day humanity will play with law just as children play with dis- used objects, not in order to restore them to their canonical use but to free them from it for good. What is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it. And use, which has been contaminated by law, must also be freed from its own value. This liberation is the task of study, or of play. And this studious play is the passage that allows us to arrive at that justice that one of Benjamin’s posthumous fragments defines as a state of the world in which the world appears as a good that absolutely cannot be appropriated or made juridical (Benjamin 1992, 41).

### AT: Perm

The only ethical position is to refuse the sovereign fiction of lines between inside and outside.

Edkins and Pin-Fat 05. Jenny Edkins, professor of international politics at Prifysgol Aberystwyth University (in Wales) and Veronique Pin-Fat, senior lecturer in politics at Manchester Universit, “Through the Wire: Relations of Power and Relations of Violence,” Millennium - Journal of International Studies 2005 34: pg. 14

One potential form of challenge to sovereign power consists of a refusal to draw any lines between zoe- and bios, inside and outside**.**59 As we have shown, sovereign power does not involve a power relation in Foucauldian terms. It is more appropriately considered to have become a form of governance or technique of administration through relationships of violence that reduce political subjects to mere bare or naked life. In asking for a refusal to draw lines as a possibility of challenge, then, we are not asking for the elimination of power relations and consequently, we are not asking for the erasure of the possibility of a mode of political being that is empowered and empowering, is free and that speaks: quite the opposite. Following Agamben, we are suggesting that it is only through a refusal to draw any lines at all between forms of life (and indeed, nothing less will do) that sovereign power as a form of violence can be contested and a properly political power relation (a life of power as potenza) reinstated. We could call this challenging the logic of sovereign power through refusal. Our argument is that we can evade sovereign power and reinstate a form of power relation by contesting sovereign power’s assumption of the right to draw lines, that is, by contesting the sovereign ban. Any other challenge always inevitably remains within this relationship of violence. To move outside it (and return to a power relation) we need not only to contest its right to draw lines in particular places, but also to resist the call to draw any lines of the sort sovereign power demands.¶ The grammar of sovereign power cannot be resisted by challenging or fighting over where the lines are drawn. Whilst, of course, this is a strategy that can be deployed, it is not a challenge to sovereign power per se as it still tacitly or even explicitly accepts that lines must be drawn somewhere (and preferably more inclusively). Although such strategies contest the violence of sovereign power’s drawing of a particular line, they risk replicating such violence in demanding the line be drawn differently**.** This is because such forms of challenge fail to refuse sovereign power’s line-drawing ‘ethos’, an ethos which, as Agamben points out, renders us all now homines sacri or bare life.¶ Taking Agamben’s conclusion on board, we now turn to look at how the assumption of bare life can produce forms of challenge. Agamben puts it in terms of a transformation:¶ This biopolitical body that is bare life must itself instead be transformed into the site for the constitution and installation of a form of life that is wholly exhausted in bare life and a bios that is only its own zoe-.... If we give the name form-of-life to this being that is only its own bare existence and to this life that, being its own form, remains inseparable from it we will witness the emergence of a field of research beyond the terrain defined by the intersection of politics and philosophy, medico-biological sciences and jurisprudence.60

### Link

1. drawing lines

2. determination of the terrorist

3. reform – “practical suggestions”

**Agamben 98.** Giorgio Agamben, professor of philosophy at the University of Verona, *Homo Sacer: Sovereign Power and Bare Life,* pg. 179

In this sense, our age is nothing but the implacable and methodical attempt to overcome the division dividing the people, to eliminate radically the people that is excluded. This attempt brings together, according to different modalities and horizons, **Right and Left**, capitalist countries and socialist countries, which are united in the project-which is in the last analysis **futile** but which has been partially realized in all industrialized countries-of **producing a single and undivided people.** The **obsession with development** is as effective as it is in our time because it coincides with the **biopolitical project** to produce an undivided people. The extermination of the Jews in Nazi Germany acquires a **radically new significance** in this light. As the people that refuses to be integrated into the national political body (it is assumed that every assimilation is actually only simulated), the Jews are the representatives par excellence and almost the living symbol of the people and of **the bare life** that modernity necessarily creates within itself, but whose presence it can no longer tolerate in any way. And we must see the extreme phase of the internal struggle that divides People and people in the lucid fury with which the German Yolk-representative par excellence of the People as a whole political body-sought to eliminate the Jews forever. With the Final Solution (which did, not by chance, involve Gypsies and others who could not be integrated), Nazism darkly and futilely sought to liber­ ate the political scene of the West from this intolerable shadow in order to produce the German Volk as the people that finally overcame **the origi­nal biopolitical fracture**. (This is why the Nazi leaders so obstinately repeated that in eliminating Jews and Gypsies, they were actually also working for the other European peoples.) Paraphrasing the Freudian postulate on the relation between ego and id, one could say that modern biopolitics is supported by the principle according to which "Where there is bare life, there will have to be a People"-on condition that one immediately add that the principle also holds in its inverse formulation: **"Where there is a People, there will be bare life."** The fracture that was believed to have been overcome by eliminating the people (the Jews who are its symbol) thus reproduces itself anew, transforming the entire German people into a sacred life consecrated to death, and **a biological body that must be infinitely purified** (through the elimination of the mentally ill and the bearers of hereditary diseases). And in a different yet analogous way, today's **democratico-capitalist project of eliminating the poor classes** through development not only **reproduces within itself the people that is excluded** but also transforms **the entire population of the Third World into bare life**. Only a politics that will have **learned to take the fundamental biopolitical fracture of the West into account** will be able to stop this oscillation and to **put an end to the civil war** that divides **the peoples and the cities of the earth**.

Investing in the law as a marker and method for alleviating racial violence reifies a liberal understanding of freedom which has empirically amplified and cloaked racism.

Kandaswamy 2012

/Priya, Women's, Gender, and Sexuality Studies, Mills College “SYMPOSIUM ON EXPLORING POWER, AGENCY & ACTION IN A WORLD OF MOVING FRONTIERS:

ARTICLE: THE OBLIGATIONS OF FREEDOM AND THE LIMITS OF LEGAL EQUALITY,” 41 Sw. L. Rev. 265/

Despite a vast array of critiques that have elucidated the ways in which the U.S. state is deeply invested in¶ maintaining social relations of racism, capitalism, and heteropatriarchy, it is still quite commonplace to assume that to¶ remedy social injustices one must turn first to the law. The pursuit of legal equality is frequently understood as the most¶ pragmatic approach and a necessary first step to any kind of broad scale social change. In practice, however, legal equality struggles have failed to deliver substantive social justice for many groups. Frequently written off as a sign of¶ the incompleteness of legal change, these failures are often invoked as evidence of the need for further legal reform¶ rather than prompting the serious consideration of the law's actual capacity to effect change that perhaps they should.¶ Even those critical of legal strategies frequently fall back on them, citing legal reform as a necessary evil, the best that¶ can be achieved in the current political context, or the first step toward broader changes. In this way, the law maintains a¶ fierce hold on the political imagination.¶ In this essay, I argue for the importance of severing that hold. The assumptions that legal reform is a pragmatic and¶ necessary first step to social justice is a reflection of the boundaries that circumscribe what is imagined as politically¶ possible within dominant discourse rather than the essential truths they are often taken to be. To the extent that legal¶ interventions will always simultaneously reinforce the legal authority of the U.S. state, legal reform is bound to reiterate¶ rather than transform unequal distributions of power.

Pinning political possibilities to the law circumscribes the¶ boundaries of change in very narrow ways. Instead, movements for social justice must seek to open up possibilities for¶ transformation and evaluate their engagements with the law in terms of the [\*266] future possibilities those¶ engagements might open or foreclose. In other words, rather than presume legal equality is the answer, it is necessary to¶ engage with the more complex questions about what freedom should and could look like and locate legal interventions¶ in relation to this broader vision.¶ In order to illustrate these points, I turn first to the historical example of emancipation and the consequent conferral¶ of citizenship to formerly enslaved people, a quintessential moment in the expansion of legal rights in U.S. history. I¶ look to Reconstruction Era struggles over the meaning of citizenship specifically because they mark a particularly¶ defining moment in the reconfiguration of racial violence through the construct of the liberal subject. Given the ways¶ that U.S. citizenship had been defined against blackness, the Fourteenth Amendment's extension of citizenship rights to¶ freed people forced the nation to grapple with what racially inclusive citizenship in a nation forged through racial¶ violence would look like. Therefore, considering the legacies of this historical period raises crucial issues for¶ contemporary struggles for inclusion, equality and the extension of legal rights, particularly given the role emancipation¶ has played as an important historical reference point for these struggles.¶ Emancipation marked a moment of great possibility, and freed people held broad and diverse visions of freedom¶ that included reparations, land ownership, freedom of mobility, and other self-defined mechanisms of individual and¶ collective self-determination. n1 However, as Saidiya Hartman shows, legal recognition as citizens worked to constrain¶ and curtail these more expansive possibilities of freedom by locking freedom for black people into an idiom defined by¶ obligation, indebtedness, and responsibility. n2 Rather than mitigate the significance of racial difference in the national¶ imagination, the conferral of citizenship rights collaborated in "the persistent production of blackness as abject,¶ threatening, servile, dangerous, dependent, irrational, and infectious" n3 and obliged freed people to shoulder the¶ responsibilities and burdens of perpetually having to demonstrate their preparedness for and deservingness of¶ citizenship in a context where their blackness marked them as otherwise. n4 This was evident [\*267] in the ways that¶ state institutions prioritized enforcing labor and sexual discipline amongst freed people. n5 As the Virginia Freedmen's¶ Bureau's Assistant Commissioner Orlando Brown wrote, if freed people were to be citizens, it was necessary "to make¶ the Freedmen into a self-supporting class of free laborers, who shall understand the necessity of steady employment and¶ the responsibility of providing for themselves and [their] families." n6¶ As Hartman shows, anti-black racism fundamentally shaped recognition as a liberal subject. n7 While for white¶ male citizens liberal individualism had afforded a kind of entitlement and self-determination, for freed people,¶ recognition as a liberal subject rendered one responsible and therefore blameworthy. n8 This was particularly evident in¶ the workings of contract. A key distinction between the free person and the slave was self-ownership signified primarily¶ through the capacity to enter into contract. n9 The understanding of legal freedom as self-possession meant that there¶ was no inherent contradiction between subordination and freedom as long as subordination was secured through a freely¶ entered into contract, a phenomenon most clearly illustrated by the labor and marriage contracts. n10 For freed people¶ who had both been structurally denied access to other material resources through slavery and who were subject to¶ vagrancy laws that criminalized the refusal to enter into long-term labor contracts, contracts were very much coerced. n11 However, despite the fact that they functioned to limit black people's mobility, secure the hyper-exploitation of¶ black labor, and provided the ground for the development of carceral institutions directed at the punishment of black¶ people, n12 entering into the labor contract became discursively understood as the quintessential sign of freedom. n13 In¶ fact, freed people were called upon to demonstrate their independence and deservingness of freedom by fulfilling the¶ terms of the [\*268] labor contract. n14 In this way, contract provided a rubric for reinventing relations of subordination¶ by obscuring national responsibility for the injustices of slavery and instead displacing this responsibility onto the¶ shoulders of the formerly enslaved. n15 Freedom was rewritten as obligation and independence manifested as a burden.¶ n16¶ Liberal concepts of freedom also functioned as a mechanism of regulating gender and sexuality through the¶ marriage contract. While marriages and other kinship ties were not legally recognized under slavery, one of the first¶ rights freed people gained was marriage recognition. n17 However, as Katherine Franke points out, the extension of¶ marriage rights was grounded in the belief that marriage as an institution would help civilize freed people by instilling¶ heteropatriarchal gender norms. n18 A key element of the rationalization of slavery was the construction of black¶ inferiority as marked by a lack of the gender differentiation that was seen as characteristic of civilization. n19 As Matt¶ Richardson describes, "early attempts to congeal racist taxonomies of difference through anatomical investigation and¶ ethnographic observation produced the Black body as always already variant and Black people as the essence of gender¶ aberrance, thereby defining the norm by making the Black its opposite." n20 While marriage recognition did provide¶ some tangible protections to married freed people, the belief in marriage as a civilizing institution simultaneously¶ reiterated and valorized white supremacist beliefs that black people's inferiority was evidenced in their lack of¶ appropriate gender and sexuality. n21 Additionally, the extension of marriage rights provided the ground upon which¶ alternative sexual arrangements were criminalized and rationalized state austerity toward black people by constructing¶ the self-sufficient household as the means to economic security. n22 As a result of the legal recognition of black¶ marriages, many freed people faced convictions for adultery, fornication, cohabitation, and the failure to provide for¶ their legal [\*269] dependents. n23 In this way, much like the labor contract, the extension of rights in fact created new¶ obligations and new grounds upon which black people might be punished.¶ Michel Foucault argues that one of the distinguishing features of the modern state is the emergence of biopower.¶ n24 Unlike sovereign power that is expressed in the capacity to take life, biopower is invested in the production of¶ knowledge about and regulation of populations, processes of normalization and regularization, and ultimately the¶ capacity to "make live" in particular ways. n25 However, Foucault also notes that sovereign power does not simply¶ disappear but rather that the state continues to exercise sovereign power alongside biopower. n26 This process is¶ delimited by state racism, which "introduces a break into the domain of life that is under power's control: the break¶ between what must live and what must die." n27 As biopower becomes concerned with regulating the life of the¶ population, racism marks the bodies upon which sovereign power must still be exercised. n28 Killing the internal or¶ external racial threat becomes understood as a necessary element to making the population stronger. n29¶ Scholars such as Ann Stoler and Scott Morgensen have elaborated on Foucault's rather scant discussion of racism¶ showing the ways in which biopower in fact emerges in relation to and as a function of colonial violence. n30 Hartman's¶ analysis of anti-black racism and the constitution of the liberal subject complicates Foucault's analysis and adds to¶ scholarship that highlights the central role of racial violence in the elaboration of state power. n31 As Hartman shows,¶ during Reconstruction, black people were simultaneously subject to the normalizing and violent powers of the state, or¶ perhaps more accurately normalizing processes became yet another vehicle for state violence. n32 On the one hand,¶ freed people were subject to [\*270] constant surveillance as their moral capacity for citizenship was always in¶ question, and any failure to comply with labor or marriage contracts was read as evidence of this incapacity. n33 On the¶ other hand, contractual freedom provided a basis for the state's total disinvestment in black life, thereby making it more¶ or less impossible to live up to the ideals of citizenship. n34 In this way, the seeming contradictions between racial¶ inclusion and racial violence were effectively displaced by locating responsibility for state violence in those who¶ suffered from its effects. The black subject was thus brought into the fold of citizenship but as a subject always in need¶ of reform or punishment. This historical example powerfully illustrates the ways in which inclusion into citizenship rights can operate as a¶ technique of domination and the role the construct of the liberal subject plays in maintaining state racism. n35 Certainly,¶ laws have changed a great deal since Reconstruction. However, the differentiated structure of citizenship grounded in¶ anti-black racism that Hartman describes still operates. n36 For example, contemporary political struggles over marriage¶ reflect the processes by which marriage can secure entitlements for one social group while exacting social obligations¶ from another. On the one hand, a mainstream, predominantly white gay and lesbian movement seeks access to a wide¶ array of property and social rights through same-sex marriage recognition. n37 On the other hand, marriage incentive¶ programs and increasingly punitive welfare regulations cast marriage and the economic self-sufficiency that supposedly¶ [\*271] comes with it as an obligation for welfare recipients who are most frequently represented as black women. n38¶ Another terrain upon which racially stratified constructions of citizenship are evident is in struggles for state protection¶ from violence. Legislation that has increasingly criminalized violence against women and hate crimes against LGBT¶ people holds out the promise of greater equality and freedom for some by expanding a system of mass incarceration that¶ targets women of color and queer and transgender people of color. n39 In fact, the increasingly punitive and austere¶ orientation of the U.S. welfare state and the expansion of the prison industrial complex can be understood as the logical¶ extension of the processes of liberal subjection that Hartman outlines. n40 On the one hand, the state disinvests in black¶ life. n41 On the other hand, processes of criminalization hold individuals responsible for the effects of that¶ disinvestment, displacing responsibility for state violence onto those who feel its effects most and punishing those¶ bodies for their structural location. n42¶ The assumption that legal equality strategies are the most pragmatic pathways through which resistance movement¶ might effect change presumes that recognition as a free and equal liberal subject by the state is universally desirable,¶ possible, and emancipatory. A historical view, however, demonstrates that the abstract construction of the liberal¶ subject has functioned in particular ways to secure continued anti-black violence and that, for many, liberal subjecthood¶ itself rationalizes and begets state violence. It is essential that the utility of the law for social change be assessed from¶ the vantage point of people who live at this conjuncture.¶ My point then is to insist on the necessity of vociferously challenging hegemonic understanding of how the law¶ works and what the law offers movements for social change by centering the experiences of those for whom legal¶ citizenship and the extension of rights have undermined rather than advanced struggles for freedom. Legal change is¶ often construed as the benchmark of success for social movements. However, the case of Reconstruction clearly¶ demonstrates how legal recognition can in practice [\*272] produce a narrowing of political possibilities and a fixing of¶ responsibility for social injustice onto the black bodies. While Reconstruction is frequently narrated as the transition¶ from slavery to freedom, it is more accurate to recognize the ways in which the state reduced the multiple possible¶ meanings of freedom to the rubrics of liberal individualism and contract. These rubrics produced black people as both¶ formally free and structurally subordinated thereby reconciling state racism with the extension of citizenship.¶ However, it is important to remember that both in the past and in the present many other concepts of freedom exist¶ and are exercised. For example, Elsa Barkley Brown demonstrates how freed people sought to defy liberal¶ individualism and the exclusion of women from suffrage by exercising the vote as a collective resource. n43 Tera Hunter¶ shows how black women saw freedom as something to enjoy by reclaiming their time and their bodies. n44 In addition,¶ there is a vast black radical tradition of intellectual and cultural production that has persistently challenged anti-black¶ racism while putting forward alternate visions of freedom. n45 In the contemporary moment, Native American¶ conceptions of sovereignty actively challenge settler colonialism and show how structures of collective belonging that¶ are not embedded in state violence might be instated. n46 A vibrant prison abolition movement seeks to dismantle¶ incarceration in all its form and imagine a world without prisons. n47 Queer and gender nonconforming communities¶ have developed a broad range of strategies for securing community survival and creating spaces to develop different¶ ways of living without relying upon the law. n48 Feminists of color are building community based mechanisms for¶ addressing interpersonal and state violence against women. n49 These are but a few important examples of what [\*273]¶ exists beyond the purview of the law. Rather than building on and cultivating these more expansive notions of freedom,¶ however, insistence that legal equality is a pragmatic and necessary first step to change erases them. While there is no easy solution to the dilemmas the law produces for social justice movements, I conclude by¶ suggesting some important principles that might be used to rethink our relationship to the law. First, it is imperative to¶ decenter the law in struggles for social justice. Rather than viewing legal change as a benchmark of success or situating¶ legal equality as a primary goal, it might be more effective to focus struggles around specific harms. For example, the¶ historical case I have discussed shows that legal equality and inclusion is not the most productive site of struggle¶ because even if it is secured it does not ameliorate and can actually reproduce the violence people experience in their¶ lives. It seems more appropriate to target those forms of violence directly by naming them, targeting their root causes,¶ and holding state institutions accountable for their perpetuation rather than relying upon an abstract rubric of equality.¶ n.

## 1NR – PIK

### 2NC Overview

**The CP solves best – criticizing their normative form opens up a space for reflection where true solvency becomes impossible.**

**Winter 91** (Steven L. June, Prof of Law @ U. of Miami, Texas Law Review ”On Building Houses”)

As this last argument suggests, **the focus on the complex, systemic nature of affairs need condemn us neither to stasis nor to undecidability**. Rather, the insight that cultural forms both constrain and enable subjectivity provides an alternative way of thinking about the problems of law and social structure. If, as some suggest, "[c]ritique is all there is," n63 then we hazard the kind of political quandary so poignantly illustrated by the legal decisions examined by Richard Delgado and Jean Stefancic: no matter how eloquent the appeal to an alternative vision**, there remains the quite substantial risk that decision makers will evaluate those dissenting** **arguments or counter-narratives unreflectively** -- that is, through the prism of the dominant cultural assumptions and beliefs that make them who they are -- **and, thus, will be disabled from appreciating, let alone adopting, the perspective that is being offered**. n64 **In contrast**, the essays in this symposium offer a way of moving beyond mere critique to explore instead the role of cultural, cognitive, and socio-linguistic form in channelling, structuring, and configuring practice. We propose to investigate the concrete ways in which, both in the realm of thought and of action, animating form can and does have a distinctive politics. n65 This is what is meant by "the politics of form." n66 **The idea is to** [\*1610] **examine the prevailing structures of thought** "on the bias," so to speak**, in an attempt to reveal the way in which** directionality, predilection, and **normative precommitment are always already embedded in form**. n67 As Jeremy Paul suggests**, it is by opening a space for reflection in this way that legal theory can have a progressive political payoff. n68 Through these examinations of form and its practical-political consequences, we attempt to map the possibilities of a different, less empty frame for practice**. n69 Sixty years ago, Karl Llewellyn put the challenge gravely: "Life struggling against form, or through form to its will -- 'pity and terror --.' Law means so pitifully little to life. Life is so terrifyingly dependent on law."

### AT: Perm

**Cooption DA – the perm forces us to down the path of bureaucratic tyranny, once we’ve been assimilated escape is impossible.**

**Delgado 93** (Richard, June 1993, Prof. of Law @ U. of Colorado, New York University Law Review, “Rodrigo’s Sixth Chronicle”)

**"Normative discourse is always self-centered**," Rodrigo replied. "The critique of normativity shows that in a number of ways. n81 For example, society may tolerate or even inaugurate new rights for women or minorities. But then it will invariably declare that your and my exercise of those rights is not what they had in mind at all. When a low-income Black woman has an abortion, that will seem like lasciviousness and hypersexuality, an irresponsible exercise of the right. n82 When a right to nondiscriminatory treatment in employment is recognized, everyone celebrates. But when a Black man with credentials short of Albert Einstein's gets a job, that will seem troublesome and unprincipled." n83 "So, the conclusion you draw from all this is ... ?" "That **one should never adopt the perspective of the more powerful group, even strategically**. Adopting another's perspective is always a mistake. One starts out thinking one can go along with the more numerous, better organized, and more influential group - say, white women in the case of sisters of color - and reap some benefits. **You think that you can jump nimbly aside before the inevitable setbacks, disappointments and double crosses set in. But you can't. You will march strongly and determinedly in the wrong direction, alienating yourself in the process**. You'll end up having the newly deployed rights cut back in your case, perhaps being criticized as irresponsible when you try to exercise them. Moreover, **any small suggestion for deviation in the agenda**, any polite request that the larger group consider your own concerns, **will bring quick denunciation**. You are being divisive. You are weakening the movement."

**Nesting DA – the perm conceals normative legal thought by presenting the illusion of compromise.**

**Schlag 91** (Pierre, April 1991, Prof. of Law @ Colorado U., University of Pennsylvania Law Review “Normativity and the Politics of Form” p. L/N)

**One of the classic ways the normative rhetoric extends and insulates itself from displacement is "nesting**." In this nesting process, views, **forces, and phenomena that could potentially destabilize the system of normative rhetoric are reconfigured within the rationalist form so that their disruptive potential is neutralized**. We have already seen this process at work with neo-pragmatism, comparative institutional economics, and deconstruction: neo-pragmatism becomes formalized as a set of ideas, theories, or approaches to be applied; comparative institutional economics is deployed from a purportedly supra- institutional vantage point; and deconstruction becomes transformed into a set of operationalized techniques. In each case the various approaches are in effect reconfigured within the rationalist normative rhetoric and thereby stripped of their destabilizing potential. In effect, whatever is admitted within normative legal thought becomes encapsulated or [\*912] enveloped within the rationalist rhetoric in a way that ensures compatibility.One effect of this **rationalist nesting process is to neutralize challenges to the orthodoxy by representing the challenges in much less salient or threatening forms --** a kind of jurisprudential inoculation. n288 Hence, for instance, the social construction of the subject is often represented as an idea the normatively-constructed sovereign individual subject can accept or reject without having to confront it as the truth of her being. Likewise, deconstruction is represented as supporting a form of radical individual subjectivism that turns out to be at once untenable and politically harmless, or as a set of argumentative techniques that can be wielded at any time for any reason by any individual subject. **The price of acceptance for any destabilizing intellectual movement in the legal academy is a kind of self-deformation in which the movement conforms to the existing matrices of the dominant rationalism.** Not surprisingly, the effects of this rationalist nesting process are not confined to the intellectual plane. **The very process of continuous and repetitive rationalist nesting of so many disparate intellectual currents reconfirms the universality of rationalism, and thus entrenches rationalism cognitively and rhetorically**. Rationalism becomes the universal mode of discourse, confirming its validity each time it admits (and covertly neutralizes) the disruptive potential of any new approach. **\_**

### Impacts

The aff’s identification with the state destroys agency and the value to life—reforming the state without first changing our relationship with it triggers all their harms

**Schaffer 7** (Butler, Prof @ Southwestern U School of Law, Identifying with the State, LewRockwell.com, http://archive.lewrockwell.com/shaffer/shaffer159.html)//LA \*\*\*We don’t endorse ableist language.

One of the deadliest practices we engage in is that of identifying ourselves with a collective entity. Whether it be the state, a nationality, our race or gender, or any other abstraction, we introduce division — hence, conflict — into our lives as we separate ourselves from those who identify with other groupings. If one observes the state of our world today, this is the pattern that underlies our deadly and destructive social behavior. This mindset was no better articulated than when George W. Bush declared “you're either with us, or against us.” Through years of careful conditioning, we learn to think of ourselves in terms of agencies and/or abstractions external to our independent being. Or, to express the point more clearly, we have learned to internalize these external forces; to conform our thinking and behavior to the purposes and interests of such entities. We adorn ourselves with flags, mouth shibboleths, and decorate our cars with bumper-stickers, in order to communicate to others our sense of “who we are.” In such ways does our being become indistinguishable from our chosen collective. In this way are institutions born. We discover a particular form of organization through which we are able to cooperate with others for our mutual benefit. Over time, the advantages derived from this system have a sufficient consistency to lead us to the conclusion that our well-being is dependent upon it. Those who manage the organization find it in their self-interests to propagate this belief so that we will become dependent upon its permanency. Like a sculptor working with clay, institutions take over the direction of our minds, twisting, squeezing, and pounding upon them until we have embraced a mindset conducive to their interests. Once this has been accomplished, we find it easy to subvert our will and sense of purpose to the collective. The organization ceases being a mere tool of mutual convenience, and becomes an end in itself. Our lives become “institutionalized,” and we regard it as fanciful to imagine ourselves living in any other way than as constituent parts of a machine that transcends our individual sense. Once we identify ourselves with the state, that collective entity does more than represent who we are; it is who we are. To the politicized mind, the idea that “we are the government” has real meaning, not in the sense of being able to control such an agency, but in the psychological sense. The successes and failures of the state become the subject's successes and failures; insults or other attacks upon their abstract sense of being — such as the burning of “their” flag — become assaults upon their very personhood. Shortcomings on the part of the state become our failures of character. This is why so many Americans who have belatedly come to criticize the war against Iraq are inclined to treat it as only a “mistake” or the product of “mismanagement,” not as a moral wrong. Our egos can more easily admit to the making of a mistake than to moral transgressions. Such an attitude also helps to explain why, as Milton Mayer wrote in his revealing post-World War II book, They Thought They Were Free, most Germans were unable to admit that the Nazi regime had been tyrannical. It is this dynamic that makes it easy for political officials to generate wars, a process that reinforces the sense of identity and attachment people have for “their” state. It also helps to explain why most Americans — though tiring of the war against Iraq — refuse to condemn government leaders for the lies, forgeries, and deceit employed to get the war started: to acknowledge the dishonesty of the system through which they identify themselves is to admit to the dishonest base of their being. The truthfulness of the state's rationale for war is irrelevant to most of its subjects. It is sufficient that they believe the abstraction with which their lives are intertwined will be benefited in some way by war. Against whom and upon what claim does not matter — except as a factor in assessing the likelihood of success. That most Americans have pipped nary a squeak of protest over Bush administration plans to attack Iran — with nuclear weapons if deemed useful to its ends — reflects the point I am making. Bush could undertake a full-fledged war against Lapland, and most Americans would trot out their flags and bumper-stickers of approval. The “rightness” or “wrongness” of any form of collective behavior becomes interpreted by the standard of whose actions are being considered. During World War II, for example, Japanese kamikaze pilots were regarded as crazed fanatics for crashing their planes into American battleships. At the same time, American war movies (see, e.g., Flying Tigers) extolled the heroism of American pilots who did the same thing. One sees this same double-standard in responding to “conspiracy theories.” “Do you think a conspiracy was behind the 9/11 attacks?” It certainly seems so to me, unless one is prepared to treat the disappearance of the World Trade Center buildings as the consequence of a couple pilots having bad navigational experiences! The question that should be asked is: whose conspiracy was it? To those whose identities coincide with the state, such a question is easily answered: others conspire, we do not. It is not the symbiotic relationship between war and the expansion of state power, nor the realization of corporate benefits that could not be obtained in a free market, that mobilize the machinery of war. Without most of us standing behind “our” system, and cheering on “our” troops, and defending “our” leaders, none of this would be possible. What would be your likely response if your neighbor prevailed upon you to join him in a violent attack upon a local convenience store, on the grounds that it hired “illegal aliens?” Your sense of identity would not be implicated in his efforts, and you would likely dismiss him as a lunatic. Only when our ego-identities become wrapped up with some institutional abstraction — such as the state — can we be persuaded to invest our lives and the lives of our children in the collective madness of state action. We do not have such attitudes toward organizations with which we have more transitory relationships. If we find an accounting error in our bank statement, we would not find satisfaction in the proposition “the First National Bank, right or wrong.” Neither would we be inclined to wear a T-shirt that read “Disneyland: love it or leave it.” One of the many adverse consequences of identifying with and attaching ourselves to collective abstractions is our loss of control over not only the meaning and direction in our lives, but of the manner in which we can be efficacious in our efforts to pursue the purposes that have become central to us. We become dependent upon the performance of “our” group; “our” reputation rises or falls on the basis of what institutional leaders do or fail to do. If “our” nation-state loses respect in the world — such as by the use of torture or killing innocent people - we consider ourselves no longer respectable, and scurry to find plausible excuses to redeem our egos. When these expectations are not met, we go in search of new leaders or organizational reforms we believe will restore our sense of purpose and pride that we have allowed abstract entities to personify for us. As the costs and failures of the state become increasingly evident, there is a growing tendency to blame this system. But to do so is to continue playing the same game into which we have allowed ourselves to become conditioned. One of the practices employed by the state to get us to mobilize our “dark side” energies in opposition to the endless recycling of enemies it has chosen for us, is that of psychological projection. Whether we care to acknowledge it or not — and most of us do not — each of us has an unconscious capacity for attitudes or conduct that our conscious minds reject. We fear that, sufficiently provoked, we might engage in violence — even deadly — against others; or that inducements might cause us to become dishonest. We might harbor racist or other bigoted sentiments, or consider ourselves lazy or irresponsible. Though we are unlikely to act upon such inner fears, their presence within us can generate discomforting self-directed feelings of guilt, anger, or unworthiness that we would like to eliminate. The most common way in which humanity has tried to bring about such an exorcism is by subconsciously projecting these traits onto others (i.e., “scapegoats”) and punishing them for what are really our own shortcomings. The state has trained us to behave this way, in order that we may be counted upon to invest our lives, resources, and other energies in pursuit of the enemy du jour. It is somewhat ironic, therefore, that most of us resort to the same practice in our criticism of political systems. After years of mouthing the high-school civics class mantra about the necessity for government — and the bigger the government the better — we begin to experience the unexpected consequences of politicization. Tax burdens continue to escalate; or the state takes our home to make way for a proposed shopping center; or ever-more details of our lives are micromanaged by ever-burgeoning state bureaucracies. Having grown weary of the costs — including the loss of control over our lives — we blame the state for what has befallen us. We condemn the Bush administration for the parade of lies that precipitated the war against Iraq, rather than indicting ourselves for ever believing anything the state tells us. We fault the politicians for the skyrocketing costs of governmental programs, conveniently ignoring our insistence upon this or that benefit whose costs we would prefer having others pay. The statists have helped us accept a world view that conflates our incompetence to manage our own lives with their omniscience to manage the lives of billions of people — along with the planet upon which we live! — and we are now experiencing the costs generated by our own gullibility. We have acted like country bumpkins at the state fair with the egg money who, having been fleeced by a bunch of carnival sharpies, look everywhere for someone to blame other than ourselves. We have been euchred out of our very lives because of our eagerness to believe that benefits can be enjoyed without incurring costs; that the freedom to control one's life can be separated from the responsibilities for one's actions; and that two plus two does not have to add up to four if a sizeable public opinion can be amassed against the proposition. By identifying ourselves with any abstraction (such as the state) we give up the integrated life, the sense of wholeness that can be found only within each of us. While the state has manipulated, cajoled, and threatened us to identify ourselves with it, the responsibility for our acceding to its pressures lies within each of us. The statists have — as was their vicious purpose — simply taken over the territory we have abandoned. Our politico-centric pain and suffering has been brought about by our having allowed external forces to move in and occupy the vacuum we created at the center of our being. The only way out of our dilemma involves a retracing of the route that brought us to where we are. We require nothing so much right now as the development of a sense of “who we are” that transcends our institutionalized identities, and returns us – without division and conflict – to a centered, self-directed integrity in our lives.

Utilizing the state to combat social ills appeals to a model of heroic individualism that denies value to life

**Anker 12** (Elisabeth, Prof @ George Washington U, Heroic Identifications: Or, “You Can Love Me Too – I am so Like the State”, Theory & Event, 15(1), 2012, Project MUSE)//LA

The post-9/11 desire for mastery derives from the juxtaposition between a desire for freedom and generalized conditions of political powerlessness in contemporary life. It stems from the ways in which formally free individuals are not only materially constrained by multiple and interweaving modes of social power, but are shaped by contemporary global crises such as empire, occupation, and imperialism across broad international populations; from the broadening control of the state and economy over aspects of social life previously ascribed to the “private” realm, such as education, child-rearing, and welfare; from neoliberal capital, terrorism, ethnic wars, racism, sexism, entrenched and broadening levels of poverty, environmental destruction, security privatization, and resource scarcity. Under these conditions, citizens are excluded from national politics and made into consumers rather than active players in the operations of collective decision-making; multinational corporate powers promote vast levels of exploitation while evading accountability and visibility; jobs and families are uprooted, severed, and micromanaged as a politics of fear pervades work and home life; systems of support from state, family, and community structures are financially broken and systematically destroyed; the nexus of capitalism and state governance pushes the goals of efficiency, subjugation, and flexibility to organize the terms of collective governance and individual citizenship at the expense of notions of justice, freedom, or the good; mediated information exposes various horrors and subjugations from around the world, yet at the same time insists that nothing can be done to change them; no viable political collectivity offers significant societal-wide change, as significant change does not seem probable. Under these conditions, individuals seem unable to experience freedom or effect change in the world. They are conditioned by the impinging effects of global capital and global interdependence, as well as the inability to master or singularly control the powers that generate them. Affecting individuals to significantly varying degrees depending upon their locations within structures of power and privilege, these conditions also shape ordinary and lived experiences of powerlessness across populations. Experiences of powerlessness are not only frightening but also confusing, as their causes are often difficult to discern. The modes of power that produce them are often nonagentic and spatially unlocatable – global yet micropolitical, impinging yet intangible, faceless yet moving, and replicating with alacrity. They create a widespread and constant sense of precariousness and constraint that is not so much explicitly expressed as experienced as nagging, unarticulated affects of impotence, anxiety, constriction, and anger. Identification with the state aims to address these experiences by heroically overcoming them. Identification with state action is also, in part, an effect of a specific type of liberal individualism that valorizes expectations of mastery over and autonomy from the social world. American political subjects, often shaped by individualism’s expectations of individual sovereignty and self-determinism, struggle with the continual process of power’s regulatory capacity as well as lived experiences of dependence. Both demonstrate their failure to live up to individualism’s ideal image: to be, in Etienne Balibar’s words, the “subject without subjection,” to be self-reliant, to master power, to pull oneself up by one’s bootstraps, to actively and unilaterally determine the course of one’s existence.13 Awash in the tenets of liberal individualism, freedom here means autonomy from others and from power, and is experienced through a type of self-determinism that implies the capacity to control historical and political uncertainty. It is understood to be both the lived experience of mastery and the absence of power over the self. Interdependence of any sort is considered unfreedom, so that freedom is sustained through an aggressive stance toward other individuals, nations, and even nature.14 To subjects who want yet are unable to live up to this model of agency, bold and unilateral state actions can seem to be one place where a strong autonomy is still possible. State action seems to harbor the possibility of unrestrained power over the contingencies of the world, where the ability to control others and the world still gains credence.