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## case

Their focus on the body and appeals to personal experience as the basis for identifying oppression results in a crude form of biological determinism that results in neo-tribalism and violent politics

Craig Ireland, Assistant Professor, Dept. Of American Culture and Literature Bilkent University, 2004, The Subaltern Appeal to Experience: Self-Identity, Late Modernity, and the Politics of Immediacy, p. 13-22

This Thompsonian notion of experience has found its way into numerous strands of histories of difference and subaltern studies, and rooted as it is in prediscursive materiality, it is hardly surprising that it should have lately migrated to what is considered by many to be the last enclave of resistance against ideological contamination — the perceived material immediacy of the body itself. Certain North American feminists propose "experience, qua women's experience of alienation from their own bodies, as the evidence of difference," while others, by contend disruptive fissure within dominant discursive regimes, have retreated, as Joan W. Scott notes, to "the biological or physical 'experience' of the body" itself.27 Others still have gone so far as to see the body as the last enclave of resistance where the nonmediated specificity of experience is "registered" or "inscribed," in the manner of Kafka's penal colony, as so many body piercings testifying to the irreducibly singular, telling us that "our body is becoming a new locus of struggle, which lays claim to its difference through actions such as body piercing."28

Such a stance is of course beset by numerous epistemological problems that have already been repeatedly pointed out by others and that need not be rehearsed here. Suffice to say, as does Fredric Jameson, that "we must be very suspicious of the reference to the body as an appeal to immediacy (the warning goes back to the very first chapter of Hegel's Phenomenology); even Foucault's medical and penal work can be read as an account of the construction of the body which rebukes premature immediacy."29 The recent obsession with the material body, moreover, is hardly in a position to vindicate the historical materialism with which, as if to appease Bourdieu, it often fancies itself allied.3° But **at stake in the recent obsession with the** materiality of immediate **bodily experience** is not just an attempt to redeem historical, let alone dialectical, materialism — something that an exclusive reliance on immediate experience, bodily or otherwise, is hardly in a position to accomplish anyway; at stake instead **is the condition of possibility of an active subject and of a ground from which can be erected strategies of resistance** (to use the jargon of the ig8os) and a politics of identity (to use the slogan of the 199os) that might evade the hegemony, as current parlance phrases it, of dominant discursive formations. And to this day, it is in the name of agency and cultural specificity that appeals are made to immediate experience by those currents in subaltern studies that presuppose a non-mediated homology or correlation between one's structural position, one's socioeconomic interests, one's propensity for certain types of experiences, and certain forms of consciousness or awareness.

It is of course unlikely that Thompson would endorse some of the uses to which his notion of experience has been put. But that is beside the point. **Regardless of** Thompson's **motivations**, this turn to the material immediacy of bodily experiences is but the logical unfolding of his argument, which, for all its cautious disclaimers, attempts to ground group specificity and agency in the nondiscursive and the immediate. Since for the Thompsonian notion of experience all forms of mediation are considered fair game for ideological penetration, the turn to the immediate is to be expected, and the migration towards material immediacy is but an extrapolation of such a turn. But what are the potential consequences of such a turn?

More is involved here than some epistemological blunder. In their bid to circumvent ideological mediation by turning to the immediacy of experience, Thompsonian experience-oriented theories advance an argument that is not so much specious as it is potentially dangerous: there is nothing within the logic of such an argument that precludes the hypostatization of other nondiscursive bases for group membership and specificity — bases that can as readily be those of a group's immediate experiences as they can be those, say, of a group's presumed materially immediate biological characteristics or physical markers of ethnicity and sexuality. If, indeed, the criterion for the disruptive antihegemonic potential of experience is its immediacy and if, as we have just seen, such a criterion can readily lead to a fetishization of the material body itself, then what starts out as an attempt to account for a nonmediated locus of resistance and agency can end up as a surenchere of immediacy that a mere nudge by a cluster of circumstances can propel towards what Michael Piore has termed "**biologism**"3' — an increasingly common trend whereby "a person's entire identity resides in a single physical characteristic, whether it be of blackness, of deafness or of homosexuality."32 Blut and Boden seems but a step away.

THE INSISTENCE ON EXPERIENCE: THE SPECTRE OF NEO-ETHNIC TRIBALISM

For theories hoping to account for agency and for groups struggling for cultural recognition, such a step from a wager on immediate experience to rabid neo-ethnic fundamentalisms is only a possible step and not a necessary one, and any link between appeals to immediate experience and neo-ethnic tribalism is certainly not one of affinity and still less one of causality. What the parallelism between the two does suggest, however, is that in spite of their divergent motivations and means, they both attempt to ground group specificity by appealing to immediacy — by appealing, in other words, to something that is less a historical product or a mediated construct than it is an immediately given natural entity, whether it be the essence of a Volk, as in current tribalisms, or the essence of material experiences specific to groups, as in strains of Alltagsgeschichte and certain other subaltern endeavours.33 If a potential for **biologism and the** spectre of neo-ethnic tribalism seem close at hand in certain cultural theories and social movements, **it is because the recourse to immediate experience** opens the back door to what was booted out the front door — it inadvertently naturalizes what it initially set out to historicize.

The tendency in appeals to experience towards naturalizing the historical have already been repeatedly pointed out precisely by those most sympathetic to the motivations behind such appeals. Joan W. Scott — hardly an antisubaltern historian — has indeed argued, as have Nancy Fraser, Rita Felski, and others, that it is by predicating identity and agency on shared nonmediated experiences that certain historians of difference and cultural theorists in fact "locate resistance outside its discursive construction and reify agency as an inherent attribute of individuals" — a move that, when pushed to its logical conclusion, "naturalizes categories such as woman, black, white, heterosexual and homosexual by treating them as given characteristics of individuals."34 Although such a tendency within experience-oriented theories is of course rarely thematized, and more rarely still is it intended, it nevertheless logically follows from the argument according to which group identity, specificity, and concerted political action have as their condition of possibility the nonmediated experiences that bind or are shared by their members. On the basis of such a stance, it is hardly surprising that currents of gayidentity politics (to take but one of the more recent examples) should treat homosexuality, as Nancy Fraser has noted, "as a substantive, cultural, identificatory positivity, much like an ethnicity."35

It may seem unfair to impute to certain experience-oriented theories an argument that, when pushed to its logical conclusion, can as readily foster an "emancipatory" politics of identity as it can neo-ethnic tribalism.36 The potential for biologism hardly represents the intentions of experience-oriented theories — after all, such theories focus on the immediacy of experience, rather than on the essence of a group, in order to avoid both strong structural determination and the naturalizing of class or subaltern groups. But if, as these theories tell us, the counterhegemonic potential of experience resides in its prediscursive immediacy and if mediation is thus relegated to a parasitical, supplemental, and retrospective operation and if, finally, a nondiscursive or ideologically uncontaminated common ground constitutes a guarantee of group authenticity, it then inevitably follows that experiences cannot be discursively differentiated from one another and, as a result, the criteria for group specificity end up being those elements that unite groups in non-discursive ways. And such nondiscursive elements, in turn, can as readily be those of a group's shared nonmediated experience, say, of oppression, as they can be those of a group's biological characteristics. At best, "the evidence of experience," Scott notes, "becomes the evidence for the fact of difference, rather than a way of exploring how differences are established;"37 at its worst, the wager on immediate experience fosters tribalistic reflexes **that need but a little prodding before turning into those** rabid neo-ethnic "micro fascisms" against which Felix Guattari warned in his last essay before his death.38

This ultimately reproduces hegemonic structures forms the basis for neoconservative violence—policy debate is neither elitist nor monologic

Mari boor Toon, UMD Communication Associate Professor, 2005, Taking Conversation, Dialogue, and Therapy Public, Rhetoric & Public Affairs 8.3 (2005) 405-430

This widespread recognition that access to public deliberative processes and the ballot is a baseline of any genuine democracy points to the most curious irony of the conversation movement: portions of its constituency. Numbering among the most fervid dialogic loyalists have been some feminists and multiculturalists who represent groups historically denied both the right to speak in public and the ballot. Oddly, some feminists who championed the slogan "The Personal Is Political" to emphasize ways relational power can oppress tend to ignore similar dangers lurking in the appropriation of conversation and dialogue in public deliberation. Yet the conversational model's emphasis on empowerment through intimacy can duplicate the power networks that traditionally excluded females and nonwhites and gave rise to numerous, sometimes necessarily uncivil, demands for democratic inclusion. Formalized participation structures in deliberative processes obviously cannot ensure the elimination of relational power blocs, but, as Freeman pointed out, the absence of formal rules leaves relational power unchecked **and** potentially **capricious**. Moreover, the **privileging of the self**, personal **experiences, and individual perspectives of reality** intrinsic in the conversational paradigm **mirrors** justifications once used by dominant groups **who used their own** lives, **beliefs**, and interests **as** templates for hegemonic social premises to oppress women, the lower class, and people of color. Paradigms infused with the therapeutic language of emotional healing and coping likewise flirt with the type of psychological diagnoses once ascribed to disaffected women. But as Betty Friedan's landmark 1963 The Feminist Mystique argued, the cure for female alienation was neither tranquilizers nor attitude adjustments fostered through psychotherapy but, rather, unrestricted opportunities.102 [End Page 423]

**The price exacted by promoting approaches to complex public issues**—**models that cast conventional deliberative processes, including** the **marshaling** of **evidence beyond individual subjectivity, as "elitist" or "monologic**"—**can be steep**. Consider comments of an aide to President George W. Bush made before reports concluding Iraq harbored no weapons of mass destruction, the primary justification for a U.S.-led war costing thousands of lives. Investigative reporters and other persons sleuthing for hard facts, he claimed, operate "in what we call the reality-based community." Such people "believe that solutions emerge from [the] judicious study of discernible reality." Then baldly flexing the muscle afforded by increasingly popular social-constructionist and poststructuralist models for conflict resolution, he added: "That's not the way the world really works anymore . . . We're an empire now, and when we act, we create our own reality. And while you're studying that reality—judiciously, as you will—we'll act again, creating other new realities."103

The recent fascination with public conversation and dialogue most likely is a product of frustration with the tone of much public, political discourse. Such concerns are neither new nor completely without merit. Yet, as Burke insightfully pointed out nearly six decades ago, "A perennial embarrassment in liberal apologetics has arisen from its 'surgical' proclivity: its attempt to outlaw a malfunction by outlawing the function." **The attempt to eliminate flaws in a process by eliminating the entire process**, he writes, "**is like trying to eliminate heart disease by eliminating hearts.**"104 Because public argument and deliberative processes are the "heart" of true democracy, supplanting those models with social and therapeutic conversation and dialogue jeopardizes the very pulse and lifeblood of democracy itself.

Their ballot-focused strategy is terminally flawed—determining inclusion through the ballot cedes the power of inclusion to the judge, or the sovereign—reinscribes the lines of exclusion

David Campbell, Professor of International Politics at the University of Newcastle in England, 1998, Performing Politics and the Limits of Language, Theory & Event, 2:1

Those who argue that hate speech demands juridical responses assert that not only does the speech communicate, but that it constitutes an injurious act. This presumes that not only does speech act, but that "it acts upon the addressee in an injurious way" (16). This argumentation is, in Butler's eyes, based upon a "sovereign conceit" whereby speech wields a sovereign power, acts as an imperative, and embodies a causative understanding of representation. In this manner, hate speech constitutes its subjects as injured victims unable to respond themselves and in need of the law's intervention to restrict if not censor the offending words, and punish the speaker:

**This idealization of the speech act as a sovereign action (whether positive or negative) appears linked with the idealization of sovereign state power** or, rather, with the imagined and forceful voice of that power. It is as if the proper power of the state has been expropriated, delegated to its citizens, and the state then rememerges as a neutral instrument to which we seek recourse to protects as from other citizens, who have become revived emblems of a (lost) sovereign power (82).

Two elements of this are paradoxical. First, the sovereign conceit embedded in conventional renderings of hate speech comes at a time when understanding power in sovereign terms is becoming (if at all ever possible) even more difficult. Thus the juridical response to hate speech helps deal with an onto-political problem: "The constraints of legal language emerge to put an end to this particular historical anxiety [the problematisation of sovereignty], for the law requires that we resituate power in the language of injury, that we accord injury the status of an act and trace that act to the specific conduct of a subject" (78).

The second, which stems from this, is that (to use Butler's own admittedly hyperbolic formulation) "the state produces hate speech." By this she means not that the state is the sovereign subject from which the various slurs emanate, but that within the frame of the juridical account of hate speech "the category cannot exist without the state's ratification, and this power of the state's judicial language to establish and maintain the domain of what will be publicly speakable suggests that the state plays much more than a limiting function in such decisions; in fact, the state actively produces the domain of publicly acceptable speech, **demarcating the line between the domains of the speakable and the unspeakable, and** retaining the power to make and sustain the line **of consequential demarcation**" (77). **The sovereign conceit of the juridical argument thus linguistically resurrects the sovereign subject at the very moment it seems most vulnerable, and reaffirms the sovereign state and its power in relation to that subject at the very moment its phantasmatic condition is most apparent**. **The danger is that the resultant extension of state power will be turned against the social movements that sought legal redress in the first place** (24)

This strategy guarantees exclusion – instead, embrace whatever-being and simply debate how you choose, regardless of the ballot. This creates a radical form of inclusion that rejects the power of the sovereign

Karen Shimakawa, University of California, Davis, 2004, The Things We Share: Ethnic Performativity and "Whatever Being", The Journal of Speculative Philosophy 18.2 (2004) 149-160

Elsewhere I've suggested that Asian Pacific Americanness (in mainstream representation) is an effect of "national abjection," the production of national identity (as a racialized/gendered phantasm/ideal) through the designation of that which is deemed "abject"/not-American (Shimakawa 2002). Julia Kristeva defines abjection as both a state and a process—the condition/position of that which is deemed loathsome and the process by which that appraisal is made—and deems "abject and abjection [as] ... the primers of my culture" (Kristeva 1982, 2). It is, for her, the means by which the subject/"I" is produced: by establishing perceptual and conceptual borders around the self and "jettison[ing]" that which is deemed objectionable, the subject comes into (and maintains) self-consciousness. The abject, Kristeva asserts, is constituted of that which is, at a foundational level, integral to the whole; what fuels the ongoing project of abjection is the drive to expel (and thereby differentiate from) that which, on some level, cannot be fully or decisively expelled. The abject, it is important to note, does not achieve a (stable) status of object—the term often used to describe the position of (racially or sexually) disenfranchised groups in analyses of the politics of representation. Read as abject, Asian Pacific Americanness thus occupies a role both necessary to and mutually constitutive of national subject formation—but does not result in the formation of an Asian Pacific American subject, or even an Asian Pacific American object. Rather, I deploy the discourse of abjection in describing Asian American performance because (as in Kristeva's formulation) "there is nothing objective or objectal to the abject. It is simply a frontier" (9). What characterizes Asian Pacific Americanness as it comes into visibility, I would argue, is its constantly-shifting relation to U.S. Americanness, a movement between visibility and invisibility, foreignness and domestication/assimilation; it is that movement between enacted by and upon Asian Pacific Americans that marks the boundaries of Asian American cultural (and sometimes legal) citizenship. In order for U.S. Americanness to maintain its symbolic coherence, the national abject continually must be both made present and jettisoned. In positing the paradigm of abjection as a national/cultural identity-formative process, this essay offers a way of "reading" Asian Americanness [End Page 150] in relation to and as a product of U.S. Americanness—that is, as occupying the seemingly contradictory, yet functionally essential, position of a constituent element/sign of American multiculturalism and radical other/foreigner.

Given this oscillation, it is difficult to imagine a unified response or direct reaction and indeed, Asian Pacific American theatre artists have produced material that is correspondingly varied. From "Chinaman" Frank Chin's call for an Asian Pacific American theatre that would depict "real" Asian Americans and "authentic" Asian immigrant cultures/practices/mythologies and thereby disprove the grotesque "Charlie Chan" stereotypes prevalent in popular media (Chin 1995) to Pan Asian Repertory founding Artistic Director Tisa Chang's vision of an Asian American theatre in which "an Asian American could play ... a Blanche Dubois" (Chang 1994), Asian Pacific American theatre artists often find themselves having to assert their (authentic) difference and their ("American") sameness at the same time.

However, **neither of these strategies manages to escape the logic of abjection** altogether: the insistence on "authentic" Asian (American) cultural representation (the attempt to present "our" culture/histories as a corrective to stereotypical-orientalist representations) is a reaction to an (unjust or incorrect) assignment of abject status; an assertion of "our" Americanness (the "we are just like other Americans" approach) is fueled by a desire to identify with the deject (mainstream) national subject rather than the excluded abject. Is it possible to conceive a strategy that short-circuits the national abjection process altogether? In other words, is there a way to recognize the tensions inherent in the project of "performing ethnicity" that does not rely implicitly on the integrity of a (raced) national subject?

Giorgio Agamben's "whatever being" offers a possible alternative way to conceive of (communal) subjectivity that does not depend on stable political identity categories for its integrity, without requiring one to dispense with categories altogether. Unlike the common English parsing of whatever, Agamben's use of the term is differently nuanced: "[whatever being] is not 'being, it does not matter which,' but rather 'being such that it always matters'" (Agamben 1993, 1).3 The impulse to include/be included is retained, **though not assigned to** a particular or **stable grounds of inclusion**: "such-and-such being is reclaimed from its having this or that property, which identifies it as belonging to this or that set, to this or that class (the reds, the French, the Muslims)—and it is reclaimed not for another class nor for the simple generic absence of any belonging, but for its being-such, for belonging itself" (1-2, emphasis in original). Belonging itself, according to Agamben, is a state of being that acknowledges the (social and affective efficacy of the) desire for inclusion while, at the same time, resisting the concretization of static categories (defined racially, nationally, sexually, religiously, or otherwise) that would afford not only inclusion, but also exclusion. What would it mean, Agamben asks, to acknowledge the [End Page 151] desire to belong to identity categories as that which binds us across the boundaries of such categories? To define subjectivity as "being as such," that is, at the level of the impulse to belong (belonging itself), rather than at the point of inclusion in an established social category/community?4

It is important to emphasize that Agamben does not advocate a dissipation of belonging per se—his is not a dismantled universalist/humanist leveling program. "It is the Most Common that cuts off any real community," he writes; "[whatever being] is neither apathy nor promiscuity nor resignation" (10), Instead, whatever being constitutes a mode of (prospective) subject formation that achieves some of Kristeva's deject's ends (that is, the rough articulation of a subject position) without producing a concretized, jettisoned abject; and for those who might otherwise find themselves on the "wrong" side of that (nationalizing/racializing) abjection equation, perhaps Agamben's conception of "being as such" describes a strategic response to abjection that does not simultaneously reaffirm its logic; that is, it offers an alternative to abjection that does not result in simply "claiming a place" at the dejects' table.

Indeed, Agamben articulates "whatever being" in terms that are provocatively complementary to Kristeva's: whereas Kristeva's abject is "simply a frontier," Agamben situates whatever being precisely at the border or "threshold" between inside and outside, "a point of contact with an external space that must remain empty" since, in order to locate a recognized "outside" one must claim (even if only implicitly) a particular "inside," the zone/community in/to which one belongs (and from which an "outside" is distinguishable). Rather, he argues, "the outside is not another space that resides beyond a determinate space ... it is, so to speak, the experience of the limit itself" (68). By locating subject's formation in whatever being, that is, in the impulse to belong, he creates a concomitantly concretization-resistant zone of not-belonging. That is, just as Kristeva's abject is less a particular object/concept than a function (i.e., explusion/differentiation), so Agamben's "outside" is simply that which is implied by whatever being/belonging itself: the impulse to not-belong otherwise/elsewhere (always resisting the temptation to locate that otherwise/elsewhere in concrete terms). "Whatever, in this sense," Agamben writes,"is the event of an outside" (67, emphasis in original).

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Your decision should answer the resolutional question: Is the enactment of topical action better than the status quo or a competitive option?

The “war powers authority” of the President is his legal authority as Commander-in-Chief

Gallagher, Pakistan/Afghanistan coordination cell of the U.S. Joint Staff, Summer 2011

(Joseph, “Unconstitutional War: Strategic Risk in the Age of Congressional Abdication,” *Parameters*, http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/2011summer/Gallagher.pdf)

First, consider the constitutional issue of power imbalance. Central to the Constitution is the foundational principle of power distribution and provisions to check and balance exercises of that power. This clearly intended separation of powers across the three branches of government ensures that no single federal officeholder can wield an inordinate amount of power or influence. The founders carefully crafted constitutional war-making authority with the branch most representative of the people—Congress.4

The Federalist Papers No. 51, “The Structure of Government Must Furnish the Proper Checks and Balances Between the Different Departments,” serves as the wellspring for this principle. Madison insisted on the necessity to prevent any particular interest or group to trump another interest or group.5 This principle applies in practice to all decisions of considerable national importance. **Specific to war powers authority**, **the Constitution empowers the legislative branch with the authority to declare war but endows the Executive with the authority to act as Commander-in-Chief.**6 This construct designates Congress, not the president, as the primary decisionmaking body to commit the nation to war—a decision that ultimately requires the consent and will of the people in order to succeed. By vesting the decision to declare war with Congress, the founders underscored their intention to engage the people—those who would ultimately sacrifice their blood and treasure in the effort.

“Statutory” means a law by Congress

The Oxford Guide to the U.S. Government 2012

(Oxford University Press via Oxford Reference, Georgetown Library)

statute

A statute is a written law enacted by a legislature. **A federal statute is a law enacted by Congress**. State statutes are enacted by state legislatures; those that violate the U.S. Constitution may be struck down by the Supreme Court if the issue is appealed to the Court.

Judicial means the courts

MacMillan Dictionary No Date

(http://www.macmillandictionary.com/us/dictionary/american/judicial)

Judicial – definition

ADJECTIVE [ONLY BEFORE NOUN]

1 relating to the judges and courts that are responsible for justice in a country or state

the judicial system

Simulated debates about national security law inculcate agency and decision-making skills—that enables activism and avoids cooption

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

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

Linking the ballot to a simulation of concrete strategies teaches the skills to organize pragmatic consequences *and* philosophical values into a course of action

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http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf Thorkild Hanghøj, Copenhagen, 2008 Since this PhD project began in 2004, the present author has been affiliated with DREAM (Danish Research Centre on Education and Advanced Media Materials), which is located at the Institute of Literature, Media and Cultural Studies at the University of Southern Denmark. Research visits have taken place at the Centre for Learning, Knowledge, and Interactive Technologies (L-KIT), the Institute of Education at the University of Bristol and the institute formerly known as Learning Lab Denmark at the School of Education, University of Aarhus, where I currently work as an assistant professor.

Joas’ re-interpretation of Dewey’s pragmatism as a “theory of situated creativity” raises a critique of humans as purely rational agents that navigate instrumentally through meansends- schemes (Joas, 1996: 133f). This critique is particularly important when trying to understand how games are enacted and validated within the realm of educational institutions that by definition are inscribed in the great modernistic narrative of “progress” where nation states, teachers and parents expect students to acquire specific skills and competencies (Popkewitz, 1998; cf. chapter 3). However, as Dewey argues, the actual doings of educational gaming cannot be reduced to rational means-ends schemes. Instead, the situated interaction between teachers, students, and learning resources are played out as contingent re-distributions of means, ends and ends in view, which often make classroom contexts seem “messy” from an outsider’s perspective (Barab & Squire, 2004). 4.2.3. Dramatic rehearsal The two preceding sections discussed how Dewey views play as an imaginative activity of educational value, and how his assumptions on creativity and playful actions represent a critique of rational means-end schemes. For now, I will turn to Dewey’s concept of dramatic rehearsal, which assumes that social actors deliberate by projecting and choosing between various scenarios for future action. Dewey uses the concept dramatic rehearsal several times in his work but presents the most extensive elaboration in Human Nature and Conduct: Deliberation is a dramatic rehearsal (in imagination) of various competing possible lines of action… [It] is an experiment in finding out what the various lines of possible action are really like (...) Thought runs ahead and foresees outcomes, and thereby avoids having to await the instruction of actual failure and disaster. An act overtly tried out is irrevocable, its consequences cannot be blotted out. An act tried out in imagination is not final or fatal. It is retrievable (Dewey, 1922: 132-3). This excerpt illustrates how Dewey views the process of decision making (deliberation) through the lens of an imaginative drama metaphor. Thus, decisions are made through the imaginative projection of outcomes, where the “possible competing lines of action” are resolved through a thought experiment. Moreover, Dewey’s compelling use of the drama metaphor also implies that decisions cannot be reduced to utilitarian, rational or mechanical exercises, but that they have emotional, creative and personal qualities as well. Interestingly, there are relatively few discussions within the vast research literature on Dewey of his concept of dramatic rehearsal. A notable exception is the phenomenologist Alfred Schütz, who praises Dewey’s concept as a “fortunate image” for understanding everyday rationality (Schütz, 1943: 140). Other attempts are primarily related to overall discussions on moral or ethical deliberation (Caspary, 1991, 2000, 2006; Fesmire, 1995, 2003; Rönssön, 2003; McVea, 2006). As Fesmire points out, dramatic rehearsal is intended to describe an important phase of deliberation that does not characterise the whole process of making moral decisions, which includes “duties and contractual obligations, short and long-term consequences, traits of character to be affected, and rights” (Fesmire, 2003: 70). Instead, dramatic rehearsal should be seen as the process of “crystallizing possibilities and transforming them into directive hypotheses” (Fesmire, 2003: 70). Thus, deliberation can in no way guarantee that the response of a “thought experiment” will be successful. But what it can do is make the process of choosing more intelligent than would be the case with “blind” trial-and-error (Biesta, 2006: 8). The notion of dramatic rehearsal provides a valuable perspective for understanding educational gaming as a simultaneously real and imagined inquiry into domain-specific scenarios. Dewey defines dramatic rehearsal as the capacity to stage and evaluate “acts”, which implies an “irrevocable” difference between acts that are “tried out in imagination” and acts that are “overtly tried out” with real-life consequences (Dewey, 1922: 132-3). This description shares obvious similarities with games as they require participants to inquire into and resolve scenario-specific problems (cf. chapter 2). On the other hand, there is also a striking difference between **moral deliberation** and educational game activities in terms of the actual consequences that follow particular actions. Thus, when it comes to educational games, acts are both imagined and tried out, but without all the real-life consequences of the practices, knowledge forms and outcomes that are being simulated in the game world. Simply put, there is a difference in realism between the dramatic rehearsals of everyday life and in games, which only “play at” or simulate the stakes and risks that characterise the “serious” nature of moral deliberation, i.e. a real-life politician trying to win a parliamentary election experiences more personal and emotional risk than students trying to win the election scenario of The Power Game. At the same time, the lack of real-life consequences in educational games makes it possible to design a relatively safe learning environment, where teachers can stage particular game scenarios to be enacted and validated for educational purposes. In this sense, educational games are able to provide a safe but meaningful way of letting teachers and students make mistakes (e.g. by giving a poor political presentation) and dramatically rehearse particular “competing possible lines of action” that are relevant to particular educational goals (Dewey, 1922: 132). Seen from this pragmatist perspective, the educational value of games is not so much a question of learning facts or giving the “right” answers, but more a question of exploring the contingent outcomes and domain-specific processes of problem-based scenarios.

Legal engagement is good—

The law is malleable—debating it is the only way to affect change

Todd Hedrick, Assistant Professor of Philosophy at Michigan State University, Sept 2012, Democratic Constitutionalism as Mediation: The Decline and Recovery of an Idea in Critical Social Theory, Constellations Volume 19, Issue 3, pages 382–400

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

Rejecting state-based legal solutions creates ineffective activism, undermining progressive forces

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

Both the practical failures and the fallacy of rigid boundaries generated by extralegal activism rhetoric permit us to broaden our inquiry to the underlying assumptions of current proposals regarding transformative politics — that is, attempts to produce meaningful changes in the political and socioeconomic landscapes. The suggested alternatives produce a new image of social and political action. This vision rejects a shared theory of social reform, rejects formal programmatic agendas, and embraces a multiplicity of forms and practices. Thus, it is described in such terms as a plan of no plan,211 “a project of projects,”212 “anti-theory theory,”213 politics rather than goals,214 presence rather than power,215 “practice over theory,”216 and chaos and openness over order and formality. As a result, the contemporary message rarely includes a comprehensive vision of common social claims, but rather engages in the description of fragmented efforts. As Professor Joel Handler argues, the commonality of struggle and social vision that existed during the civil rights movement has disappeared.217 There is no unifying discourse or set of values, but rather an aversion to any metanarrative and a resignation from theory. Professor Handler warns that this move away from grand narratives is self-defeating precisely because only certain parts of the political spectrum have accepted this new stance: “[T]he opposition is not playing that game . . . . [E]veryone else is operating as if there were Grand Narratives . . . .”218 Intertwined with the resignation from law and policy, the new bromide of “neither left nor right” has become axiomatic only for some.219 The contemporary critical legal consciousness informs the scholarship of those who are interested in progressive social activism, but less so that of those who are interested, for example, in a more competitive securities market. Indeed, an interesting recent development has been the rise of “conservative public interest lawyer[ing].”220 Although “public interest law” was originally associated exclusively with liberal projects, in the past three decades conservative advocacy groups have rapidly grown both in number and in their vigorous use of traditional legal strategies to promote their causes.221 This growth in conservative advocacy is particularly salient in juxtaposition to the decline of traditional progressive advocacy. Most recently, some thinkers have even suggested that there may be “something inherent in the left’s conception of social change — focused as it is on participation and empowerment — that produces a unique distrust of legal expertise.”222 Once again, **this conclusion reveals flaws** parallel **to the** original **disenchantment with legal reform**. Although the new extralegal frames present themselves as apt alternatives to legal reform models and as capable of producing significant changes to the social map, in practice they generate very limited improvement in existing social arrangements. Most strikingly, the cooptation effect here can be explained in terms of the most profound risk of the typology — that of legitimation. The common pattern of extralegal scholarship is to describe an inherent instability in dominant structures by pointing, for example, to grassroots strategies,223 and then to **assume** that specific instances of counterhegemonic activities translate into a more complete transformation. This celebration of multiple micro-resistances seems to rely on an aggregate approach — an idea that the multiplication of practices will evolve into something substantial. **In fact, the myth of engagement obscures the** actual lack of change being produced**, while the broader pattern of equating extralegal activism with social reform produces a** false belief in the potential of change. There are few instances of meaningful reordering of social and economic arrangements and macro-redistribution. Scholars write about decoding what is really happening, as though the scholarly narrative has the power to unpack more than the actual conventional experience will admit.224 Unrelated efforts become related and part of a whole through mere reframing. At the same time, the elephant in the room — the rising level of economic inequality — is left unaddressed and comes to be understood as natural and inevitable.225 This is precisely the problematic process that critical theorists decry as losers’ self-mystification, through which marginalized groups come to see systemic losses as the product of their own actions and thereby begin to focus on minor achievements as representing the boundaries of their willed reality. The explorations of micro-instances of activism are often fundamentally performative, obscuring the distance between the descriptive and the prescriptive. The manifestations of **extralegal** **activism** — the law and organizing model; the proliferation of informal, soft norms and norm-generating actors; and the celebrated, separate nongovernmental sphere of action — all **produce a fantasy that change can be brought about through small-scale, decentralized transformation**. The emphasis is local, but the locality **is** described as a microcosm of the whole and the audience is national and global. In the context of the humanities, Professor Carol Greenhouse poses a comparable challenge to ethnographic studies from the 1990s, which utilized the genres of narrative and community studies, the latter including works on American cities and neighborhoods in trouble.226 The aspiration of these genres was that each individual story could translate into a “time of the nation” body of knowledge and motivation.227 In contemporary legal thought, a corresponding gap opens between the local scale and the larger, translocal one. In reality, although there has been a recent proliferation of associations and grassroots groups, few new local-statenational federations have emerged in the United States since the 1960s and 1970s, and many of the existing voluntary federations that flourished in the mid-twentieth century are in decline.228 There is, therefore, an absence of links between the local and the national, an absent intermediate public sphere, which has been termed “the missing middle” by Professor Theda Skocpol.229 New social movements have for the most part failed in sustaining coalitions or producing significant institutional change through grassroots activism. Professor Handler concludes that this failure is due in part to the ideas of contingency, pluralism, and localism that are so embedded in current activism.230 Is the focus on small-scale dynamics simply an evasion of the need to engage in broader substantive debate? **It is important for next-generation progressive legal scholars**, while maintaining a critical legal consciousness, to recognize that not all extralegal associational life is transformative. We must differentiate, for example, between inward-looking groups, which tend to be self-regarding and depoliticized, and social movements that participate in political activities, engage the public debate, and aim to challenge and reform existing realities.231 We must differentiate between professional associations and more inclusive forms of institutions that act as trustees for larger segments of the community.232 As described above, extralegal activism tends to operate on a more divided and hence a smaller scale than earlier social movements, which had national reform agendas. Consequently, **within critical discourse there is a need to recognize the limited capacity of small-scale action**. We should question the narrative that imagines consciousness-raising as directly translating into action and action as directly translating into change. Certainly not every cultural description is political. Indeed, it is questionable whether forms of activism that are opposed to programmatic reconstruction of a social agenda should even be understood as social movements. In fact, when groups are situated in opposition to any form of institutionalized power, they may be simply mirroring what they are fighting against and merely producing moot activism that settles for what seems possible within the narrow space that is left in a rising convergence of ideologies. The original vision is consequently coopted, and contemporary discontent is legitimated through a process of self-mystification.

Debate over a controversial point of action creates argumentative stasis—that’s key to avoid a devolution of debate into competing truth claims, which destroys the decision-making benefits of the activity

Steinberg and Freeley ‘13

David Director of Debate at U Miami, Former President of CEDA, officer, American Forensic Association and National Communication Association. Lecturer in Communication studies and rhetoric. Advisor to Miami Urban Debate League, Masters in Communication, and Austin, JD, Suffolk University, attorney who focuses on criminal, personal injury and civil rights law, *Argumentation and Debate*

*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

Debate is a means of settling differences, so there must be a controversy, a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a feet or value or policy, there is no need or opportunity for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four,” because there is simply no controversy about this state­ment. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions of issues, there is no debate. Controversy invites decisive choice between competing positions. Debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants live in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies are best understood when seated clearly such that all parties to the debate share an understanding about the objec­tive of the debate. This enables focus on substantive and objectively identifiable issues facilitating comparison of competing argumentation leading to effective decisions. Vague understanding results in unfocused deliberation and poor deci­sions, general feelings of tension without opportunity for resolution, frustration, and emotional distress, as evidenced by the failure of the U.S. Congress to make substantial progress on the immigration debate. Of course, arguments may be presented without disagreement. For exam­ple, claims are presented and supported within speeches, editorials, and advertise­ments even without opposing or refutational response. Argumentation occurs in a range of settings from informal to formal, and may not call upon an audi­ence or judge to make a forced choice among competing claims. Informal dis­course occurs as conversation or panel discussion without demanding a decision about a dichotomous or yes/no question. However, by definition, debate requires "reasoned judgment on a proposition. The proposition is a statement about which competing advocates will offer alternative (pro or con) argumenta­tion calling upon their audience or adjudicator to decide. The proposition pro­vides focus for the discourse and guides the decision process. Even when a decision will be made through a process of compromise, it is important to iden­tify the beginning positions of competing advocates to begin negotiation and movement toward a center, or consensus position. It is frustrating and usually unproductive to attempt to make a decision when deciders are unclear as to what the decision is about. The proposition may be implicit in some applied debates (“Vote for me!”); however, when a vote or consequential decision is called for (as in the courtroom or in applied parliamentary debate) it is essential that the proposition be explicitly expressed (“the defendant is guilty!”). In aca­demic debate, the proposition provides essential guidance for the preparation of the debaters prior to the debate, the case building and discourse presented during the debate, and the decision to be made by the debate judge after the debate. Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terri­ble job! They' are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do some­thing about this” or, worse, “It’s too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies, The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved; That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. This focus contributes to better and more informed decision making with the potential for better results. In aca­demic debate, it provides better depth of argumentation and enhanced opportu­nity for reaping the educational benefits of participation. In the next section, we will consider the challenge of framing the proposition for debate, and its role in the debate. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about a topic, such as ‘"homeless­ness,” or “abortion,” Or “crime,” or “global warming,” we are likely to have an interesting discussion but not to establish a profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet by itself fails to provide much basis for dear argumen­tation. If we take this statement to mean *Iliad* the written word is more effec­tive than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose, perhaps promoting positive social change. (Note that “loose” propositions, such as the example above, may be defined by their advocates in such a way as to facilitate a clear contrast of competing sides; through definitions and debate they “become” clearly understood statements even though they may not begin as such. There are formats for debate that often begin with this sort of proposition. However, in any debate, at some point, effective and meaningful discussion relies on identification of a clearly stated or understood proposition.) Back to the example of the written word versus physical force. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote weII-organized argument. What sort of writing are we concerned with—poems, novels, government documents, web­site development, advertising, cyber-warfare, disinformation, or what? What does it mean to be “mightier" in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advo­cates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

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

Steinberg and Freeley ‘13

David Director of Debate at U Miami, Former President of CEDA, officer, American Forensic Association and National Communication Association. Lecturer in Communication studies and rhetoric. Advisor to Miami Urban Debate League, Masters in Communication, and Austin, JD, Suffolk University, attorney who focuses on criminal, personal injury and civil rights law, *Argumentation and Debate*

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In the spring of 2011, facing a legacy of problematic U.S, military involvement in Bosnia, Iraq, and Afghanistan, and criticism for what some saw as slow sup­port of the United States for the people of Egypt and Tunisia as citizens of those nations ousted their formerly American-backed dictators, the administration of President Barack Obama considered its options in providing support for rebels seeking to overthrow the government of Muammar el-Qaddafi in Libya. Public debate was robust as the administration sought to determine its most appropriate action. The president ultimately decided to engage in an international coalition, enforcing United Nations Security Council Resolution 1973 through a number of measures including establishment of a no-fly zone through air and missile strikes to support rebels in Libya, but stopping short of direct U.S. intervention with ground forces or any occupation of Libya. While the action seemed to achieve its immediate objectives, most notably the defeat of Qaddafi and his regime, the American president received both criticism and praise for his mea­sured yet assertive decision. In fact, the past decade has challenged American leaders to make many difficult decisions in response to potentially catastrophic problems. Public debate has raged in chaotic environment of political division and apparent animosity, The process of public decision making may have never been so consequential or difficult. Beginning in the fall of 2008, Presidents Bush and Obama faced a growing eco­nomic crisis and responded in part with '’bailouts'' of certain Wall Street financial entities, additional bailouts of Detroit automakers, and a major economic stimu­lus package. All these actions generated substantial public discourse regarding the necessity, wisdom, and consequences of acting (or not acting). In the summer of 2011, the president and the Congress participated in heated debates (and attempted negotiations) to raise the nation's debt ceiling such that the U.S. Federal Govern­ment could pay its debts and continue government operations. This discussion was linked to a debate about the size of the exponentially growing national debt, gov­ernment spending, and taxation. Further, in the spring of 2012, U.S. leaders sought to prevent Iran from developing nuclear weapon capability while gas prices in the United States rose, The United States considered its ongoing military involvement in Afghanistan in the face of nationwide protests and violence in that country1 sparked by the alleged burning of Korans by American soldiers, and Americans observed the actions of President Bashir Al-Assad and Syrian forces as they killed Syrian citizens in response to a rebel uprising in that nation and considered the role of the United States in that action. Meanwhile, public discourse, in part generated and intensified by the cam­paigns of the GOP candidates for president and consequent media coverage, addressed issues dividing Americans, including health care, women's rights to reproductive health services, the freedom of churches and church-run organiza­tions to remain true to their beliefs in providing (or electing not to provide) health care services which they oppose, the growing gap between the wealthiest 1 percent of Americans and the rest of the American population, and continued high levels of unemployment. More division among the American public would be hard to imagine. Yet through all the tension, conflict was almost entirely ver­bal in nature, aimed at discovering or advocating solutions to growing problems. Individuals also faced daunting decisions. A young couple, underwater with their mortgage and struggling to make their monthly payments, considered walking away from their loan; elsewhere a college sophomore reconsidered his major and a senior her choice of law school, graduate school, or a job and a teenager decided between an iPhone and an iPad. Each of these situations called for decisions to be made. Each decision maker worked hard to make well-reasoned decisions. Decision making is a thoughtful process of choosing among a variety of options for acting or thinking. It requires that the decider make a choice. Life demands decision making. We make countless individual decisions every day. To make some of those decisions, we work hard to employ care and consider­ation: others scorn to just happen. Couples, families, groups of friends, and co­workers come together to make choices, and decision-making bodies from committees to juries to the U.S. Congress and the United Nations make deci­sions that impact us all. Every profession requires effective and ethical decision making, as do our school, community, and social organizations. We all engage in discourse surrounding our necessary decisions every day. To refinance or sell one’s home, to buy a high-performance SUV or an eco­nomical hybrid car, what major to select, what to have for dinner, what candi­date to vote for, paper or plastic, all present us with choices. Should the president deal with an international crisis through military invasion or diplomacy? How should the U.S. Congress act to address illegal immigration? Is the defendant guilty as accused? Should we watch The Daily Show or the ball game? And upon what information should I rely to make my decision? Certainly some of these decisions are more consequential than others. Which amendment to vote for, what television program to watch, what course to take, which phone plan to purchase, and which diet to pursue—all present unique challenges. At our best, we seek out research and data to inform our decisions. Yet even the choice of which information to attend to requires decision making. In 2006, Time magazine named YOU its "Person of the Year.” Congratulations! Its selection was based on the participation not of “great men” in the creation of his­tory, but rather on the contributions of a community of anonymous participants in the evolution of information. Through blogs, online networking, YouTube, Facebook, Twitter, Wikipedia, and many other “wikis," and social networking sites, knowledge and truth are created from the bottom up, bypassing the authoritarian control of newspeople, academics, and publishers. Through a quick keyword search, we have access to infinite quantities of information, but how do we sort through it and select the best information for our needs? Much of what suffices as information is not reliable, or even ethically motivated. The ability of every decision maker to make good, reasoned, and ethical deci­sions' relies heavily upon their ability to think critically. Critical thinking enables one to break argumentation down to its component parts in order to evaluate its relative validity and strength, And, critical thinking offers tools enabling the user to better understand the' nature and relative quality of the message under consider­ation. Critical thinkers are better users of information as well as better advocates. Colleges and universities expect their students to develop their critical thinking skills and may require students to take designated courses to that end. The importance and value of such study is widely recognized. The executive order establishing California's requirement states; Instruction in critical thinking is designed to achieve an understanding of the relationship of language to logic, which would lead to the ability to analyze, criticize and advocate ideas, to reason inductively and deductively, and to reach factual or judgmental conclusions based on sound inferences drawn from unambigu­ous statements of knowledge or belief. The minimal competence to be expected at the successful conclusion of instruction in critical thinking should be the ability to distinguish fact from judgment, belief from knowledge, and skills in elementary inductive arid deductive processes, including an under­standing of die formal and informal fallacies of language and thought. Competency in critical thinking is a prerequisite to participating effectively in human affairs, pursuing higher education, and succeeding in the highly com­petitive world of business and the professions. Michael Scriven and Richard Paul for the National Council for Excellence in Critical Thinking Instruction argued that the effective critical thinker: raises vital questions and problems, formulating them clearly and precisely; gathers and assesses relevant information, using abstract ideas to interpret it effectively; comes to well-reasoned conclusions and solutions, testing them against relevant criteria and standards; thinks open-mindedly within alternative systems of thought, recognizing, and assessing, as need be, their assumptions, implications, and practical con­sequences; and communicates effectively with others in figuring our solutions to complex problems. They also observed that critical thinking entails effective communication and problem solving abilities and a commitment to overcome our native egocentrism and sociocentrism,"1 Debate as a classroom exercise and as a mode of thinking and behaving uniquely promotes development of each of these skill sets. Since classical times, debate has been one of the best methods of learning and applying the principles of critical thinking. Contemporary research confirms the value of debate. One study concluded: The impact of public communication training on the critical thinking ability of the participants is demonstrably positive. This summary of existing research reaffirms what many ex-debaters and others in forensics, public speaking, mock trial, or argumentation would support: participation improves die thinking of those involved,2 In particular, debate education improves the ability to think critically. In a com­prehensive review of the relevant research, Kent Colbert concluded, "'The debate-critical thinking literature provides presumptive proof ■favoring a positive debate-critical thinking relationship.11'1 Much of the most significant communication of our lives is conducted in the form of debates, formal or informal, These take place in intrapersonal commu­nications, with which we weigh the pros and cons of an important decision in our own minds, and in interpersonal communications, in which we listen to argu­ments intended to influence our decision or participate in exchanges to influence the decisions of others. Our success or failure in life is largely determined by our ability to make wise decisions for ourselves and to influence the decisions of’ others in ways that are beneficial to us. Much of our significant, purposeful activity is concerned with making decisions. Whether to join a campus organization, go to graduate school, accept a job offer, buy a car or house, move to another city, invest in a certain stock, or vote for Garcia—these are just a few Of the thousands of deci­sions we may have to make. Often, intelligent self-interest or a sense of respon­sibility will require us to win the support of others. We may want a scholarship or a particular job for ourselves, a customer for our product, or a vote for our favored political candidate. Some people make decision by flipping a coin. Others act on a whim or respond unconsciously to “hidden persuaders.” If the problem is trivial—such as whether to go to a concert or a film—the particular method used is unimportant. For more crucial matters, however, mature adults require a reasoned methods of decision making. Decisions should be justified by good reasons based on accurate evidence and valid reasoning.

# 2nc

### at t is anti-radical

Goals determine radicality so ethical alignment is sufficient to avoid cooption

Andrews ‘10

Kehinde, PhD, University of Birmingham, “Back to Black: Black Radicalism and the Supplementary School Movement”\*”I am we” = quote from Emory Douglas, Black Panther Cultural Minister from 1967-80

Black radicalism has often, unsurprisingly given the House/Field split, taken a dim view of the success of the Black middle class. As outlined above success in the White world can be seen to be at the expense of the masses. Moving out of the neighbourhood, going to better schools and socialising in different circles, have all been seen as going against the interests of the people. Participating in ―Babylon system‖ and accepting its corrupt rewards is not always seen as success (Kennedy, 2008). There exists for some a certain level of scepticism of professors, lawyers, doctors etc because of their position in mainstream society. Individual success is sometimes seen as coming at the expense of community success. However, there is a problem with this equation. **If “I am we”** is the case then **surely the opposite is true**, in that “we are I”. By this I mean that more individual success should have a benefit to the community; **the more mainstream success of the I the better for the we.** This is an important note to make here because authenticity within the Black radical tradition is based on **politics** and not socio-economic position. **It is not selling out** or ―tomming‖ to have a good career, live in a nice house outside the neighbourhood or even to have a White partner. **Where authenticity comes in is whether or not the successes of the I are being used to benefit the we**. Having a relatively privileged position in the social structure enables a person to donate money, use **resources and skills** they are fortunate enough to have acquired and also put time back in to the community. This is the test of authenticity from the Black radical standpoint: whether or not someone is involved in improving the conditions of Black people as a whole.

### Morson

Dialogue is the biggest impact—the process of discussion precedes any truth claim by magnifying the benefits of any discussion

Morson 4

<http://www.flt.uae.ac.ma/elhirech/baktine/0521831059.pdf#page=331>

Northwestern Professor, Prof. Morson's work ranges over a variety of areas: literary theory (especially narrative); the history of ideas, both Russian and European; a variety of literary genres (especially satire, utopia, and the novel); and his favorite writers -- Chekhov, Gogol, and, above all, Dostoevsky and Tolstoy. He is especially interested in the relation of literature to philosophy.

A belief in truly dialogic ideological becoming would lead to schools that were quite different. In such schools, the mind would be populated with a complexity of voices and perspectives it had not known, and the student would learn to think with those voices, to test ideas and experiences against them, and to shape convictions that are innerly persuasive in response. This very process would be central. Students would sense that whatever word they believed to be innerly persuasive was only tentatively so: the process of dialogue continues.We must keep the conversation going, and formal education only initiates the process. The innerly persuasive discourse would not be final, but would be, like experience itself, ever incomplete and growing. As Bakhtin observes of the innerly persuasive word: Its creativity and productiveness consist precisely in the fact that such a word awakens new and independent words, that it organizes masses of our words from within, and does not remain in an isolated and static condition. It is not so much interpreted by us as it is further, that is, freely, developed, applied to new material, new conditions; it enters into interanimating relationships with new contexts. . . . The semantic structure of an innerly persuasive discourse is not finite, it is open; in each of the new contexts that dialogize it, this discourse is able to reveal ever newer ways to mean. (DI, 345–6) We not only learn, we also learn to learn, and we learn to learn best when we engage in a dialogue with others and ourselves. We appropriate the world of difference, and ourselves develop new potentials. Those potentials allow us to appropriate yet more voices. Becoming becomes endless becoming. We talk, we listen, and we achieve an open-ended wisdom. Difference becomes an opportunity (see Freedman and Ball, this volume). Our world manifests the spirit that Bakhtin attributed to Dostoevsky: “nothing conclusive has yet taken place in the world, the ultimate word of the world and about the world has not yet been spoken, the world is open and free, everything is in the future and will always be in the future.”3 Such a world becomes our world within, its dialogue lives within us, and we develop the potentials of our ever-learning selves. Letmedraw some inconclusive conclusions, which may provoke dialogue. Section I of this volume, “Ideologies in Dialogue: Theoretical Considerations” and Bakhtin’s thought in general suggest that we learn best when we are actually learning to learn. We engage in dialogue with ourselves and others, and the most important thing is the value of the open-ended process itself. Section II, “Voiced, Double Voiced, and Multivoiced Discourses in Our Schools” suggests that a belief in truly dialogic ideological becoming would lead to schools that were quite different. In such schools, the mind would be populated with a complexity of voices and perspectives it had not known, and the student would learn to think with those voices, to test ideas and experiences against them, and to shape convictions that are innerly persuasive in response. Teachers would not be trying to get students to hold the right opinions but to sense the world from perspectives they would not have encountered or dismissed out of hand. Students would develop the habit of getting inside the perspectives of other groups and other people. Literature in particular is especially good at fostering such dialogic habits. Section III, “Heteroglossia in a Changing World” may invite us to learn that dialogue involves really listening to others, hearing them not as our perspective would categorize what they say, but as they themselves would categorize what they say, and only then to bring our own perspective to bear. We talk, we listen, and we achieve an open-ended wisdom. The chapters in this volume seem to suggest that we view learning as a perpetual process. That was perhaps Bakhtin’s favorite idea: that to appreciate life, or dialogue, we must see value not only in achieving this or that result, but also in recognizing that honest and open striving in a world of uncertainty and difference is itself the most important thing. What we must do is keep the conversation going.

### 2nc at: case DA—long

Topical version of the aff solves: they could defend that we should enact statutory restrictions on the introduction of armed forces – the forcing of young men and women of any color to do the bidding of the usfg

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an optimistic discipline**. It operates both in the present and in the future. **Order without law is often the privilege of the strong**. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the successes and failures of past models, with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

### at: we meet

They don’t meet –“USFG should” means the debate is solely about a policy established by governmental means

Ericson ‘03

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

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

### 1nc at: identity key to validity

Their implication that experience validates their argument, or disproves our engagement is solipsism that reentrenches oppression—engagement is a better political strategy

David Bridges, Centre for Applied Research in Education, University of East Anglia, 2001, The Ethics of Outsider Research, Journal of Philosophy of Education, Vol. 35, No. 3

First, it is argued that only those who have shared in, and have been part of, a particular experience can understand or can properly understand (and perhaps `properly' is particularly heavily loaded here) what it is like. You need to be a woman to understand what it is like to live as a woman; to be disabled to understand what it is like to live as a disabled person etc. Thus Charlton writes of `the innate inability of able-bodied people, regardless of fancy credentials and awards, to understand the disability experience' (Charlton, 1998, p. 128).

Charlton's choice of language here is indicative of the rhetorical character which these arguments tend to assume. This arises perhaps from the strength of feeling from which they issue, but it warns of a need for caution in their treatment and acceptance. Even if able-bodied people have this `inability' it is difficult to see in what sense it is `innate'. Are all credentials `fancy' or might some (e.g. those reflecting a sustained, humble and patient attempt to grapple with the issues) be pertinent to that ability? And does Charlton really wish to maintain that there is a single experience which is the experience of disability, whatever solidarity disabled people might feel for each other?

The understanding that any of us have of our own conditions or experience is unique and special, though recent work on personal narratives also shows that it is itself multi-layered and inconstant, i.e. that we have and can provide many different understandings even of our own lives (see, for example, Tierney, 1993). Nevertheless, our own understanding has a special status: it provides among other things a data source for others' interpretations of our actions; it stands in a unique relationship to our own experiencing; and no one else can have quite the same understanding. It is also plausible that people who share certain kinds of experience in common stand in a special position in terms of understanding those shared aspects of experience. However, once this argument is applied to such broad categories as `women' or `blacks', it has to deal with some very heterogeneous groups; the different social, personal and situational characteristics that constitute their individuality may well outweigh the shared characteristics; and there may indeed be greater barriers to mutual understanding than there are gateways.

These arguments, however, all risk a descent into solipsism: if our individual understanding is so particular, how can we have communication with or any understanding of anyone else? But, granted Wittgenstein's persuasive argument against a private language (Wittgenstein, 1963, perhaps more straightforwardly presented in Rhees, 1970), **we cannot in these circumstances even describe or have any real understanding of our own condition in such an isolated world**. **Rather it is in talking to each other, in participating in a shared language, that we construct the conceptual apparatus that allows us to understand our own situation in relation to others,** and this is a construction which involves understanding differences as well as similarities.

Besides, we have good reason to treat with some scepticism accounts provided by individuals of their own experience and by extension accounts provided by members of a particular category or community of people. We know that such accounts can be riddled with special pleading, selective memory, careless error, self-centredness, myopia, prejudice and a good deal more. A lesbian scholar illustrates some of the pressures that can bear, for example, on an insider researcher in her own community:

As an insider, the lesbian has an important sensitivity to offer, yet she is also more vulnerable than the non-lesbian researcher, both to the pressure from the heterosexual world--that her studies conform to previous works and describe lesbian reality in terms of its relationship with the outside-and to pressure from the inside, from within the lesbian community itself--that her studies mirror not the reality of that community but its self-protective ideology. (Kreiger, 1982, p. 108)

In other words, while individuals from within a community have access to a particular kind of understanding of their experience, this does not automatically attach special authority

(though it might attach special interest) to their own representations of that experience. Moreover, while we might acknowledge the limitations of the understanding which someone from outside a community (or someone other than the individual who is the focus of the research) can develop, this does not entail that they cannot develop and present an understanding or that such understanding is worthless. Individuals can indeed find benefit in the understandings that others offer of their experience in, for example, a counselling relationship, or when a researcher adopts a supportive role with teachers engaged in reflection on or research into their own practice. Many have echoed the plea of the Scottish poet, Robert Burns (in `To a louse'):

O wad some Pow'r the giftie gie us To see oursels as others see us!3

--**even if they might have been horrified with what such power revealed to them**. Russell argued that it was the function of philosophy (and why not research too?) `to suggest many possibilities which enlarge our thoughts and free them from the tyranny of custom . . .It keeps alive our sense of wonder by showing familiar things in an unfamiliar aspect' (Russell, 1912, p. 91). `Making the familiar strange', as Stenhouse called it, often requires the assistance of someone unfamiliar with our own world who can look at our taken-for-granted experience through, precisely, the eye of a stranger. Sparkes (1994) writes very much in these terms in describing his own research, as a white, heterosexual middleaged male, into the life history of a lesbian PE teacher. He describes his own struggle with the question `is it possible for heterosexual people to undertake research into homosexual populations?' but he concludes that being a `phenomenological stranger' who asks `dumb questions' may be a useful and illuminating experience for the research subject in that they may have to return to first principles in reviewing their story. This could, of course be an elaborate piece of self-justification, but it is interesting that someone like Max Biddulph, who writes from a gay/bisexual standpoint, can quote this conclusion with apparent approval (Biddulph, 1996).

People from outside a community clearly can have an understanding of the experience of those who are inside that community. It is almost certainly a different understanding from that of the insiders. Whether it is of any value will depend among other things on the extent to which they have immersed themselves in the world of the other and portrayed it in its richness and complexity; on the empathy and imagination that they have brought to their enquiry and writing; on whether their stories are honest, responsible and critical (Barone, 1992). Nevertheless, this value will also depend on qualities derived from the researchers' externality: their capacity to relate one set of experiences to others (perhaps from their own community); their outsider perspective on the structures which surround and help to define the experience of the community; on the reactions and responses to that community of individuals and groups external to it.4

Finally, it must surely follow that if we hold that a researcher, who (to take the favourable case) seeks honestly, sensitively and with humility to understand and to represent the experience of a community to which he or she does not belong, is incapable of such understanding and representation, then how can he or she understand either that same experience as mediated through the research of someone from that community? The argument which excludes the outsider from understanding a community through the effort of their own research, a fortiori excludes the outsider from that understanding through the secondary source in the form of the effort of an insider researcher or indeed any other means. Again, the point can only be maintained by insisting that a particular (and itself ill-defined) understanding is the only kind of understanding which is worth having.

The epistemological argument (that outsiders cannot understand the experience of a community to which they do not belong) becomes an ethical argument when this is taken to entail the further proposition that they ought not therefore attempt to research that community. I hope to have shown that this argument is based on a false premise. Even if the premise were sound, however, it would not necessarily follow that researchers should be prevented or excluded from attempting to understand this experience, unless it could be shown that in so doing they would cause some harm. This is indeed part of the argument emerging from disempowered communities and it is to this that I shall now turn.

III OUTSIDERS IMPORT DAMAGING FRAMEWORKS OF UNDERSTANDING

Frequent in the literature about research into disability, women's experience, race and homosexuality is the claim that people from outside these particular communities will import into their research, for example, homophobic, sexist or racist frameworks of understanding, which damage the interests of those being researched.

In the case of research into disability it has been argued that outsider researchers carry with them assumptions that the problem of disability lies with the disabled rather than with the society which frames and defines disability. `The essential problem of recent anthropological work on culture and disability is that it perpetuates outmoded beliefs and continues to distance research from lived oppression' (Charlton, 1998, p. 27). By contrast: `a growing number of people with disabilities have developed a consciousness that transforms the notion and concept of disability from a medical condition to a political and social condition' (Charlton, 1998, p.17). Charlton goes on to criticise, for example, a publication by Ingstad and Reynolds Whyte (1995), Disability and Culture. He claims that, although it does add to our understanding of how the conceptualisation and symbolisation of disability takes place, `its language is and perspective are still lodged in the past. In the first forty pages alone we find the words suffering, lameness, interest group, incapacitated, handicapped, deformities. Notions of oppression, dominant culture, justice, human rights, political movement, and selfdetermination are conspicuously absent' (Charlton, 1998 p. 27).

Discussing the neo-colonialism of outsider research into Maori experience, Smith extends this type of claim to embrace the wider methodological and metaphysical framing of outsider research: `From an indigenous perspective Western research is more than just research that is located in a positivist tradition. It is research which brings to bear, on any study of indigenous peoples, a cultural orientation, a set of values, a different conceptualization of such things as time, space and subjectivity, different and competing theories of knowledge, highly specialized forms of language, and structures of power' (Smith, 1999, p. 42).5

This position requires, I think, some qualification. First, researchers are clearly not immune from some of the damaging and prejudicial attitudes on matters of race, sexuality, disability and gender which are found among the rest of the population, though I might hope that their training and experience might give them above-average awareness of these issues and above-average alertness to their expression in their own work. Even where such attitudes remain in researchers' consciousness, this intelligent self-awareness and social sensitivity mean on the whole that they are able to deploy sufficient self-censorship not to expose it in a damaging way. Researchers may thus remain morally culpable for their thoughts, but, at least, communities can be spared the harm of their expression. It is also a matter of some significance that researchers are more exposed than most to public criticism, not least from critics from within these disempowered communities, when such prejudices do enter and are revealed in their work. If they employ the rhetoric of, for example, anti-racist or anti-sexist conviction, they are at least in their public pronouncements exposed to the humiliation of being hoisted by their own petard. It is difficult to see the fairness in excluding all outsider researchers on the a priori supposition of universal prejudice. It is better, surely, to expose it where it is revealed and, if absolutely necessary, to debar individuals who ignore such criticism and persist in using the privilege of their research position to peddle what can then only be regarded as damaging and prejudicial propaganda. Secondly, it is plainly not the case that Western research is located exclusively (as is implied) in a positivist tradition, even if this tradition has been a dominant one. Phenomenology, ethnography, life history, even, more recently, the use of narrative fiction and poetry as forms of research representation, are all established ingredients of the educational research worlds in the UK, USA or Australasia. Contemporary research literature abounds with critiques of positivism as well as examples of its continuing expression.

I have placed much weight in these considerations on the importance of any research being exposed to criticism--most importantly, perhaps, but by no means exclusively by the people whose experience it claims to represent. This principle is not simply an ethical principle associated with the obligations that a researcher might accept towards participants in the research, but it is a fundamental feature of the processes of research and its claims to command our attention. **It is precisely exposure to, modification through and survival of** a process of vigorous public **scrutiny that provides research with whatever authority it can claim**. In contemporary ethnographic research, case-study and life-history research, for example, this expectancy of exposure to correction and criticism is one which runs right through the research process. The methodological requirement is for participants to have several opportunities to challenge any prejudices which researchers may bring with them: at the point where the terms of the research are first negotiated and they agree to participate (or not); during any conversations or interviews that take place in the course of the research; in responding to any record which is produced of the data gathering; in response to any draft or final publication. Indeed, engagement with a researcher provides any group with what is potentially a richly educative opportunity: an opportunity to open their eyes and to see things differently. It is, moreover, an opportunity which any researcher worth his or her salt will welcome.

Not all researchers or research processes will be as open as are described here to that educative opportunity, and not all participants (least of all those who are self-defining as `disempowered') will feel the confidence to take them even if they are there. **This may be seen as a reason to set up barriers to the outsider researcher, but they can and should** more often **be seen as problems** for researchers and participants **to address together in the interests of** their **mutual understanding and benefit.**

Notwithstanding these considerations, one of the chief complaints coming out of disempowered communities is that this kind of mutual interest and benefit is precisely what is lacking in their experience of research. It is to this consideration that I shall now turn. IV OUTSIDERS EXPLOIT INSIDER PARTICIPANTS IN THE COMMUNITIES THEY RESEARCH Ellen describes how fieldwork has become `a rite of passage by which the novice is transformed into the rounded anthropologist and initiated into the ranks of the profession'Ða ritual by which `the student of anthropology dies and a professional anthropologist is born' 􏰈Ellen, 1984, p. 23). This is a reminder that research can carry benefits to the researcher which go beyond those associated with the `pure' pursuit of understanding. As participants in research become more aware of this, their attitudes towards research and researchers can, understandably, change. The following observation was made by a woman from a community that had experienced several waves of enthusiastic researchers: The kind of behaviour researchers have towards locals tells us that they just want to exploit them and take from them their ideas and information. It also tells us that they don't really care at all. They want the information to use in front of a group of people at home, so that they can be seen as clever academics. Then in the end they publish books, reviews, articles etc in order to spread their popularities. So what is this, and what is research really about? Not all researchers are exploiters, but most are, and I think it is time up now for this, and that these researchers should also be exploited by local people. 􏰈Florence Shumba, quoted in Wilson, 1992, p. 199) Researchers who are sensitive to this issue typically look for ways to counter the imbalance of benefit. They will sometimes discuss with participants ways in which the research could be designed to benefit all parties, by, for example, ensuring that it addresses issues on which the participants need information as well as the researchers or by providing data that the research participants can use independently and for their own purposes. In the absence of any other perceived benefit, some schools in the UK have responded to researchers' requests for access and time for interviews by proposing to charge by the hour for teachers' time. Of course sometimes participants will be persuaded to participate on the grounds that some other people whose interests they care aboutÐ pupils in schools, for example, or children currently excluded from educationÐwill secure the benefit of the research, but there has to be the link between something which they perceive to be a benefit 􏰈albeit altruistically) and the commitment which they are asked to make. These illustrations of the terms of engagement between researchers and their participants present a picture of a trade in benefit, the negotiation of a utilitarian equation of mutual happiness and, perhaps, pain, though one in which higher satisfactions 􏰈e.g. new insights and the improvements to the future education of children) have a place alongside lower ones 􏰈a bit of self-publicity or cash in the school fund). Questions of exploitation, in Kantian terms of treating people as means rather than ends 􏰈see Kant, 1964)6 come in if, as is sometimes alleged, researchers use their positions of authority or their sophistication to establish relationships in which the benefits are very one-sided in their favour. This distinction between the utilitarian principle and the Kantian one is crucial here. The utilitarian principle might require us to measure in the scales a much wider community of benefit. If, for example, the researcher could show that, even though the Maori community he or she was researching experienced the inconvenience of the research without the benefit, thousands of other people would benefit from it, then the utilitarian equation might provide justification for the research. But this is precisely one of the weaknesses of the utilitarian principle of the greatest happiness of the greatest numberÐat least when it is applied with this sort of simplicity. It requires either a broader take on the utilitarian principle 􏰈which might observe that a programme of action which allocates all the benefits to one group and all the `pain' to another will not be conducive to the greatest aggregation of happiness) or the invoking of something closer to the Kantian principle, which would demand that we do not exploit one group of people to the exclusive benefit of another. Researchers seeking collaboration with participants in disempowered communities have essentially two forms of appealÐto their self-interest or to their generosity. Either they need to see some benefit to themselves which is at least roughly commensurate to the effort that is required of them 􏰈or in some cases the value of what they have to offer); or they need knowingly to contribute out of their own benevolence towards the researcher or others whom they believe the research will benefit. In this second case, the researcher is placed in something of the position of the receiver of a gift and he or she needs to recognise consequently the quite elaborate ethical apparatus that surrounds such receipt. There is a particular `spirit' in which we might be expected to receive a gift: a spirit of gratitude, of humility, of mutuality in the relationship. There may also be a network of social expectations, which flow from such givingÐof being in thrall to the giver, of being in his or her debtÐbut on the whole anyone contributing to an educational research project would be naõÈve to assume that such `debts' might be repaid. Most of the time, researchers are in fact inviting the generosity of their participants, and perhaps there is something more ethically elevated in responding to such generosity with a true spirit of gratitude and a recognition of the mutuality of relationship which binds giver and receiver, than in seeking to establish a trade in dubious benefits. Smith 􏰈1999) provides a wonderful picture of the combination of spirit and benefits that might be involved in establishing this relationship 􏰈as well as a whole new angle on the notion of `empowerment'!) when she outlines the range of issues on which a researcher approaching a Maori community might need to satisfy them: `Is her spirit clear? Does he have a good heart? What other baggage are they carrying? Are they useful to us? Can they fix up our generator? Can they actually do anything?' 􏰈Smith, 1999, p.10). Perhaps all educational researchers should be required to satisfy participants on these questions. I conclude that the possibility that outsider educational research may be conducted in an exploitative manner is not an argument for obstructing it comprehensively, but it is an argument for requiring that it be conducted under an appropriate set of principles and obligations and in a proper spirit. `Qualitative researchers', argued Stake, `are guests in the private spaces of the world. Their manners should be good and their code of ethics strict' 􏰈Stake, 1998, p.103). Any community may legitimately reject a researcher 􏰈insider or outsider) who fails to establish and conduct relationships under these requirements. In this field, ethics is never far removed from politics. This essay has focused on the relationship between educational researchers and communities that are self-defined as `disempowered' but has not really addressed the issue of power. At the heart of the objections to outsider research is a view that such research, far from challenging and removing such disempowerment, operates to reinforce it. It is this argument which I shall now address. V OUTSIDERS' RESEARCH DISEMPOWERS INSIDERS At least one of the arguments against outsider research into self-defined `disempowered' sections of the population is made independently of the measure of sensitivity and care, which the outsider researchers demonstrate in its conduct. `If we have learned one thing from the civil rights movement in the US', wrote Ed Roberts, a leading figure in the Disability Rights Movement 􏰈DRM), `it's that when others speak for you, you lose' 􏰈quoted in Driedger, 1989, p. 28). Roberts' case is in part that for so long as such groups depend on outsiders to represent them on the wider stage, they will be reinforcing both the fact and the perception of their subordination and dependency as well as exposing themselves to potential misrepresentation. They have to break the vicious circle of dependencyÐand that means taking control for themselves of the ways in which their experience is represented more widely: The DRM's demand for control is the essential theme that runs through all its work, regardless of political-economic or cultural di􏰀erences. Control has universal appeal for DRM activists because their needs are everywhere conditioned by a dependency born of powerlessness, poverty, degradation, and institutionalisation. This dependency, saturated with paternalism, begins with the onset of disability and continues until death. 􏰈Charlton, 1998, p. 3) Outsider researchers sometimes persuade themselves that they are acting in an emancipatory way by `giving voice to' neglected or disenfranchised sections of the community. Their research may indeed push the evident voice of the researcher far into the background as he or she `simply presents', perhaps as large chunks of direct transcription and without commentary, what participants have to say. But, as Reinharz has warned, this is by no means as simple as it might appear: To listen to people is to empower them. But if you want to hear it, you have to go hear it, in their space, or in a safe space. Before you can expect to hear anything worth hearing, you have to examine the power dynamics of the space and the social actors . . . Second, you have to be the person someone else can talk to, and you have to be able to create a context where the person can speak and you can listen. That means we have to study who we are and who we are in relation to those we study . . . Third, you have to be willing to hear what someone is saying, even when it violates your expectations or threatens your interests. In other words, if you want someone to tell it like it is, you have to hear it like it is. 􏰈Reinharz, 1988, pp. 15±16) Even with this level of self knowledge, sensitivity and discipline, there is a significant temptation in such situations to what is sometimes called ventriloquy: the using of the voice of the participant to give expression to the things which the researcher wants to say or to have said. This is a process which is present in the selection of participants, in the framing of the questions which they are encouraged to answer, in the verbal and visual cues which they are given of the researcher's pleasure or excitement with their responses, and, later, in the researcher's selection of material for publication. Such ventriloquy, argues Fine, disguises `the usually unacknowledged stances of researchers who navigate and camouflage theory through the richness of ``native voices''' 􏰈Fine, 1994, p.22).

The argument that insiders within `disempowered' communities (or any other communities for that matter) should be researching and, where appropriate, giving public expression to their own experience is surely uncontroversial. In a context in which insider research has been negligible and hugely subordinated to waves of outsider research, there is a good case for taking practical steps to correct that balance and spare a community what can understandably be experienced as an increasingly oppressive relationship with research.

There are, however, at last three reasons in principle for keeping the possibility of outsider research open: (i) that such enquiry might enhance the understanding of the researcher; (ii) that it might enhance the understanding of the community itself; and (iii) that it might enhance the understanding of a wider public. There is no doubt a place for researching our own experience and that of our own communities, but surely we cannot be condemned lifelong to such social solipsism? Notwithstanding some postmodernist misgivings, `There is still a world out there, much to learn, much to discover; and the exploration of ourselves, however laudable in that at least it risks no new imperialistic gesture, is not, in the end, capable of sustaining lasting interest' (Patai, 1994, p. 67). The issue is not, however, merely one of satisfying curiosity. **There is a real danger that if we become persuaded that we cannot understand the experience of others and that `we have no right to speak for anyone but ourselves', then we will all too easily find ourselves** epistemologically and morally isolated**, furnished with a comfortable legitimation for** ignoring the condition of anyone but ourselves. This is not, any more than the paternalism of the powerful, the route to a more just society.

How, then can we reconcile the importance of (1) wider social understanding of the world of `disempowered' communities and of the structures which contribute to that disempowerment, (2) the openness of those communities and structures to the outsider researcher, and (3) the determination that the researcher should not wittingly or unwittingly reinforce that disempowerment? The literature (from which a few selected examples are quoted below) provides some clues as to the character of relations between researcher and researched which `emancipatory', `participatory' or `educative' research might take.

To begin with, **we need to re-examine the application of the notion of `property' to the ownership of knowledge**. In economic terms, knowledge is not a competitive good. It has the distinctive virtue that (at least in terms of its educative function) it can be infinitely distributed without loss to any of those who are sharing in it. Similarly **the researcher can acquire it from people without denying it to them and can return it enriched**. However, it is easy to neglect the processes of reporting back to people and sharing in knowledge and the importance which can be attached to this process by those concerned. For Smith, a Maori woman working with research students from the indigenous people of New Zealand, `Reporting back to the people is never a one-off exercise or a task that can be signed off on completion of the written report'. She describes how one of her students took her work back to the people she interviewed. `The family was waiting for her; they cooked food and made us welcome. We left knowing that her work will be passed around the family to be read and eventually will have a place in the living room along with other valued family books and family photographs' (Smith, 1999, pp. 15±16).

For some, what is required is a moving away from regarding research as a property and towards seeing it as a dialogic enquiry designed to assist the understanding of all concerned:

Educative research attempts to restructure the traditional relationship between researcher and `subject'. Instead of a one-way process where researchers extract data from `subjects', Educational Research encourages a dialogic process where participants negotiate meanings at the level of question posing, data collection and analysis . . . It . . . encourages participants to work together on an equal basis to reach a mutual understanding. Neither participant should stand apart in an aloof or judgmental manner; neither should be silenced in the process. (Gitlin and Russell, 1994, p. 185)

# 1nr

### more cards

Assigning political value to the ballot makes debate a site for exclusion

Scott Harris, Director of Debate, Kansas University, 2013, This Ballot, http://www.cedadebate.org/forum/index.php?topic=4762.0

This ballot has concerns about the messages this debate sends about what it means to be welcomed into the home of debate. Northwestern made an argument that spoke to this concern that could have been more developed in the debate itself. This debate seemed to suggest that the sign that debate can be your home is entirely wrapped up in winning debates. The message seems to be that the winner is accepted and the loser is rejected. I believe that the arguments Northwestern advanced in the debate that being voted against is not a sign of personal rejection and that voting against an argument should not be perceived as an act of psychic violence are important arguments to reflect on. **To me one of the most important lessons that debate teaches is that there is a difference between our arguments and our personhood**. One of the problems in out contemporary society is that people have trouble differentiating between arguments and the identity of the person making the argument. If you hate the argument you must hate the person making the argument because we have trouble differentiating people from their arguments. The reason many arguments end up in violent fights in society is the inability to separate people from their arguments. People outside of debate (or the law) are often confused by how debaters (or lawyers) can argue passionately with one another and then be friends after the argument. It is because we generally separate our disagreements over arguments from our opinions about each other as people. There are two concerns this ballot has about the implications of where this debate has positioned us as a community. First, the explosion of arguments centered in identity makes it difficult to separate arguments from people. If I argue that a vote for me is a vote for my ability to express my Quare identity it by definition constructs a reality that a vote against me is a rejection of my identity. The nature of arguments centered in identity puts the other team in a fairly precarious position in debates and places the judges in uncomfortable positions as well. While discomfort may not necessarily be a bad thing it has significant implications for what debating and deciding debates means or is perceived to mean in socially constructed realities. I hope we can get beyond a point where the only perceived route to victory for some minority debaters is to rail against exclusion in debate.

The second concern is the emphasis on winning as the sign evidence of debate being a home. The reality is that many debaters do not win the majority of their debates. The majority of debaters will never win the NDT. The majority of debaters will never attend the NDT. Every debate has a loser. Losing should not be a sign of expulsion from the home. Years ago on van trips we used to play a game which we called the green weenie award. We would take the results packet and have everyone in the van guess who was the team that was the bottom seed of the tournament. The game may have had a certain amount of arrogant cruelty in it. I would sometimes wonder what it was that made the teams who didn’t win debates, who didn’t ever clear, come back the next week. As a community we get so caught up sometimes in defining our wins as successes and our losses as failures that we have lost sight of what it is that makes debate a special home in the first place. Debate cannot only be a home for the winner or it would by definition have become not a home for the majority of its participants. This ballot hopes that we can learn to recognize that the experience of losing debates is part of being welcomed in debate as well. Getting the opportunity to debate itself has tremendous value. The value is not contained in the win but is contained in the experience itself. As a coach I have to remember sometimes that my failures are only failures if I view them as failures. I need to make sure that I value all of my debaters equally whether they win their debates or lose them. When my teams lose I need to not view them as losers or the judges who voted against them as villains. Debate is an educational process. We often learn more when we lose than when we win. Debate tends to attract hyper-competitive people who hate to lose. I hate to lose. I do not want to lose at anything. Losing is an inevitable part of life. Debate needs to feel like a home for both the winners and the losers because all of us experience losing in debate. Learning how to win with class and lose with dignity is an important life lesson that I need to constantly work on myself. Learning to value the losses as much as the wins is the hardest part for me but I believe it is vital if debate is really going to be a home for all of its participants.

### more stuff

Criticism is not enough – identifying problems is far easier than crafting solutions – real change requires engaging policy discussion

Major, PhD candidate in the Department of Political Science at Rutgers University, 2012

(Mark, *Where Do We Go From Here?*, Kindle Edition, Locations 91-130)

More than seventy years ago, the economist John Maynard Keynes remarked that the ideas of intellectuals were “more powerful than is commonly understood. Indeed the world is ruled by little else.” 1 As technology continues to enable greater access to ideas around the world, the power of intellectuals is greater than ever. And given that the world is full of crushing poverty, sexism, uneven development, environmental degeneration, religious fanaticism, racism, and imperialism, the need for intellectuals to inspire the radical imagination by championing principles of economic and social justice, democracy, and universality is also greater than ever. Frederick Douglass correctly asserted that “power concedes nothing without a demand” because progress, in any form, requires work. However, **political visions are required to guide that struggle**. This is the aim of the book. Imaginations and visions matter. They point forward. They provoke thought and challenge underlying assumptions. The current political landscape in the United States consists of rampant economic, gender, and racial inequalities, **shoddy infrastructure**, declining public engagement, hyper-consumption and individualism, and politics that emphasize the trivial. Much of this is a product of the corrosive effects of neoliberalism and the new conservatism. 2 While the 2008 presidential campaign seemed to indicate disillusionment with this public philosophy and political project, it certainly did not translate into immediate success for progressives. In fact, the current political environment is, in part, a consequence of the Left’s inability to forge new paradigms for democratic life. As a result, we are experiencing the decline of the radical imagination. The paucity of the radical imagination should be viewed as a crisis to those who value substantive democratic politics. **The Left has yet to understand the consequences of defining itself solely by what it is against rather than what it is for**. Unquestionably, **identifying problems is crucial**. However, locating the problem does not necessarily render the identification of solutions. **The failure to search for solutions is irresponsible and dangerous as it negates agency for action and leads to a society of cynics**. Though recent criticism regarding the value of social sciences is superficial, there is a legitimate concern relating to the degree of scholarly engagement with politics. In the classic essay, “The Responsibility of Intellectuals,” Noam Chomsky argues that those in privileged positions like academia have the moral obligation to tell the truth and expose lies. 3 It is in that spirit that this edited volume seeks to revive another responsibility that academics have largely neglected— inspiring the radical imagination. This collection challenges leading thinkers and practitioners to put forth a new political project for democratic life. Recent literature on radical politics and policy solutions is few and far between. Commentators usually focus on a single issue, especially economic reforms. 4 While these contributions are invaluable, they are limited in that people do not lead single-issue lives. Thus, this edited volume presents a multiple-issue approach to the future of radical politics, speaking with many voices and from numerous vantage points as the Left is anything but monolithic. Furthermore, these radical policies are situated in the context of the current political environment to deal with real-life problems. This edited volume seeks to provide a first approximation, to point forward, to develop a framework that guides political action. The driving principle that informs Where Do We Go from Here? is what Stephen Eric Bronner and Michael J. Thompson call “rational radicalism.” This is “a practical enterprise that insists on resurrecting the link between ideas and reality, principles and interests, theory and practice.” Rational radicalism is equally concerned with “constraining the arbitrary exercise of institutional power whether on the level of economics, politics, or culture.” 5 This collection is **an unequivocal renunciation to the Margaret Thatchers of the world declaring that** “**There is no alternative**” **to the reigning political project**. It is also **a response to Left-oriented scholarship**, lectures, and conferences **that vigorously discuss political problems but expend minute energy on solutions**. This project gathers those who do imagine the possible. It asks the leading engaged scholars and activists, “Where do we go from here?” At the heart of this book is the fundamental question: “What is a good society and how do we move closer to one?” Another way to look at this edited volume is to consider it as a call to action, especially among those in academia. **Though essential**, **ruthless criticism is not enough**. **The hard work lies in developing solutions and it is the solutions that are lacking**. Indeed, coming up with constructive solutions is a daunting task but I was encouraged to find that these contributors were up to the challenge.

Critique must be tied to positive political purpose – voting neg enables radical engagement with the public sphere

Bronner, professor of political science at Rutgers University, 2006

(Stephen Eric, *The Logos Reader*, “Introduction,” Kindle Edition, Locations 103-132)

Logos was founded in the shadow of September 11, 2001, when the new millennium had barely begun. It was conceived as a journal, but also as part of a larger political and cultural project. A palpable chill had already pervaded the cultural climate. Neoconservatism was becoming the intellectual fashion, and a new preoccupation with world hegemony was defining American politics. That situation has only grown worse. The aftermath of 9/11 has witnessed the rise of religious traditionalism, exaggerated nationalism, and America`s withdrawal from the global discourse even as the world is becoming increasingly interdependent. The mass media as well as the classic organs of public debate made **little room for a critical perspective** in the wake of 9/11 and the subsequent global war on terror. Radical voices, even now, can barely be heard.

Logos was launched to intervene in this state of affairs. lts express purpose is to resurrect eroding democratic principles, concerns with social justice, and the broad-minded cosmopolitanism originally associated with the Enlightenment and then with the great progressive movements of modernity. Weary of hyperintellectualized professional journals, suspicious of the antiintellectual bias of many publications seeking to engage a "broader public,” Logos seeks to create a new public, one oriented toward critical reflection and political and social praxis. Our intent was to chart a new course in a responsible, intellectual manner. Both new and established writers from around the world would engage in a collective project of critique and political reconstruction on a global scale, bringing fresh ideas to pertinent issues.

Logos fosters what we like to call a rational radicalism, an interdisciplinary perspective, **and a commitment to critique with a positive political purpose**. No less than the language of the vernacular or the attempt to move outside narrow disciplinary boundaries, such an enterprise has always been associated with the ethical imperative of confronting asymmetrical relations of power.

Our journal is therefore engaged in a distinctly public enterprise. It is intent on dealing with trends deriving from the end of the cold war that have only now begun to yield their fruit, a new freedom for the market that is redistributing income upward in so many nations, and the way in which what was once called the “end of history” has given way to new forms of regional and global conflict. No less than democracy or cosmopolitanism, therefore, an unfashionable socialist impulse also informs our enterprise.

And so, if Logos is primarily the offspring of a reaction against narrow intellectualism and rank populism, it is also grounded in a **radical engagement with the contemporary public sphere**, domestically and globally. That should become apparent in our choice of the best political articles published by Logos during the first three years of its existence. It should also be evident from these articles that the editorial ethos of Logos, though obviously a journal of the Left, is free of any narrow ideological agenda and demands no particular form of analysis.

Too many liberal and left-wing journals and magazines have allowed ideology to trump the critical faculty and pervert political and ethical judgment. Such a strategy, we believe, has alienated more readers than it has enlightened or engaged. Again, however, Logos is not simply a response to a crisis of theory. It is, above all, a project to intervene in a historical conjuncture that has left everyday people of good faith disorientated. The turn toward religion and a new provincialism, possessive individualism, and an anachronistic notion of capitalism, imperialism, and nationalism, is real. Logos is explicit in its support for secularism and science, solidarity with the dispossessed, and mitigating the whip of the market, no less than realizing an ethics of human dignity and the moral precepts of universalism.