# 1NC

## 1nc

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

1. “Resolved” before a colon reflects a legislative forum

Army Officer School ‘04

(5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A *formal* resolution, after the word "resolved:"

Resolved: (colon) That this council petition the mayor.

2. “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.

They claim to win the debate for reasons other than the desirability of topical action. That undermines preparation and clash. Changing the question now leaves one side unprepared, resulting in shallow, uneducational debate. Requiring debate on a communal topic forces argument development and develops persuasive skills critical to any political outcome.

Simualted national security law debates 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.

Decision making—

Linking the ballot to a *should* question in combination with USFG simulation teaches the skills to organize pragmatic consequences *and* philosophical values into a course of action

Hanghoj 8

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.

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

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*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

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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.

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.

## 1nc

Demands for presencing of those marked as abject reinscribes the Hegelian dialectic of life and death that makes the social death possible in the first place.

Peterson ‘6

Christopher, “The Return of the Body: Judith Butler's Dialectical Corporealism,” Discourse, 28.2&3, Spring & Fall 2006, pp. 153-177 (Article)

In contemporary cultural studies, the body is laden with intense desires and expectations. Emerging with the eclipse of poststructuralism in the late 1980s, “the body” promised to weigh in on contemporary political debates, to give material substance to a discipline supposedly evacuated by what some felt to **be the excessively linguistic or textual focus** of contemporary theory. But what if the very turn to the body occasioned a certain return of **the metaphysics of presence**, only now bearing the name, or rather, the spirit of “the body”? Indeed, scholars in race, gender, and sexuality studies have often invoked the body as a **marker of both identity and self-presence**. Given the violence of erasure, invisibility, and death (both social and material) to which minority bodies have historically been subjected, it has also seemed to many that the ontology of these bodies must be **insisted upon** in the face of this nihilistic threat. As Sharon Holland announces in Raising the Dead: Readings of Death and (Black) Subjectivity, “bringing back the dead (or saving the living from the shadow of death) is the ultimate queer act.”1 And in the introduction to her seminal, 1991 collection of essays on queer theory, Inside/Out, Diana Fuss notes how “a striking feature of many of the essays collected in this volume is a fascination with the specter of abjection, a certain preoccupation with the figure of the homosexual as specter and phantom, as spirit and revenant, abject and undead.”2 Yet, queer scholarship for the most part has addressed the problem of the spectral only by way of contesting its pervasiveness in dominant representations of homosexuality. If saving us from the shadow of death names the “ultimate queer act,” such so-called “raising” of the dead relieves us of any sustained engagement with what Jacques Derrida calls **spectrality**, understood, in part, as an originary process of mourning that is the condition of all life, indeed, **of any body**. For Derrida, spectrality does not originate with one’s social or biological death. As he argues in a brief reading of Poe’s “The Facts in the Case of M. Valdemar,” our “future” absence divides our present/presence from the very beginning. Derrida takes Valdemar’s catachrestic utterance-—”I have been sleeping-—and now-—now-—I am dead”3-—to make a point about the function of language: My death is structurally necessary to the pronouncing of the I. . . . The utterance “I am living” is accompanied by my being-dead and its possibility requires the possibility that I be dead; and conversely. This is not an extraordinary story by Poe here, but the ordinary story of language. . . . I am thus originally means I am mortal.4 While Derrida’s point is that the iterability of a speech act requires the possibility of one’s absence from future scenes of utterance (and thus already implies one’s absence in the present), this living death also names the experience of “being” more generally. As Heidegger puts it, being “is always already dying” in its “beingtowardits-end.”5 For Heidegger, death is not a punctual event that one might mark on a calendar; rather, death always already belongs to our being. The conventional reduction of death to a calculable moment is precisely what Poe’s story parodies. While his doctors assert that his “disease [is] of that character which would admit of exact calculation in respect to the epoch of its termina- tion in death,” Valdemar (aided by the magic of mesmerism) continues to live beyond the estimated moment of decease, a prolongation of dying that allegorizes how life stretches along a path marked at every step by death (51). Valdemar’s protracted dying also echoes Emily Dickinson’s poem “Because I could not stop for death,” in which death “kindly” stops for the speaker and bears her forward through each stage of life. **If**, as in Dickinson’s poem, **death** haunts our “being” from the very beginning, then the spectral condition of sexual minorities is not reducible to a problem of representation, or rather, mis-representation, as queer scholarship tends to suppose. When Holland caricatures “postmodernism” as “the attractive zombie theory of the academy, a place where the living travel through death and are reborn to utter the truths of such a journey,” she suggests that postmodernism articulates a dialectical relation between life and death, a sublation of being and nonbeing that ultimately triumphs over finitude (166). Such a dialectical view of the relation between life and death, however, **opposes** **itself to the spectral**, **which is neither present nor absent**. But perhaps Holland’s caricature is to be expected, for as Derrida notes in Specters of Marx, “the traditional scholar does not believe in ghosts—nor in all that one would call the virtual space of spectrality.” 6 If the traditional scholar does not believe in ghosts, that is because “there has never been a scholar who, as such, did not believe in the clear-cut distinction between the real and the unreal, the actual and the inactual, the living and the non-living, being and non-being” (34). For Derrida, a capacity to speak to “ghosts” would be the mark of a scholar.7 Although it might seem odd to yoke queer critics to the figure of the traditional scholar, so ingrained is the anti-spectral character of queer scholarship that Holland can declare the ultimate queerness of raising the dead as a “fact,” and support this claim only by referring us to ACT UP’s famous political slogan: “**silence = death.”** To insist on this “fact,” however, **is to sidestep the problem of finitude altogether**. When scholars in race, gender, and sexuality studies write about the body, what is typically **invoked is the living body**, **the body that is present to itself, untainted by mortality**. For cultural studies, spectrality is merely an effect of racism, sexism, homophobia, and other social injustices. **Subtracted from** such **external violence**, **the body can be made present,** its ontology no longer in question. But spectrality, as Derrida uses the term (and as I propose to track it here in the context of racial and sexual politics) **does not have its origin in social inequality**. Naming a process of originary mourning that animates corporeal life, spectrality has no proper beginning or end. The abjection that sexual and racial minorities endure might be better understood as a mode of **redoubled ghostliness** that harnesses the spectrality inherent **to all life** and attaches it to those on the margins of sociality: the figure of the gay man dying of AIDS functions as the “proof” of the homophobic white male’s ontological security; the representation of AfricanAmericans as “spooks” (to cite a somewhat antiquated yet illustrative racist epithet) works to ward off the death that **always already haunts** the ontology of the white body.8 No doubt the emergence of gay and lesbian studies in the midst of the AIDS crisis and the cruelty of those discourses that sought to invoke AIDS as further proof of the “death style” of (male) homosexuality inspired many queer critics and theorists to resist the equation of homosexuality and death. Yet, the contestation of this equation, I would argue, has also had the consequence of **disavowing finitude.** My claim is that the specific, historical effects of homophobia, racism, and sexism must also be thought in relation to the generalizable **principle of spectrality**. Certainly there are good reasons to be wary of entertaining general principles, given the risk that they might come to saturate the social and political field, to erase differences altogether. Indeed, the turn to the body has been occasioned by a renewed faith in particularity that often eschews the large claims of “theory.” Yet rejecting general principles altogether risks a certain overparticularization that fails to imagine how the general and the particular might be held in perpetual tension without either finally coming to absorb the other. If “social death” names an ontological deprivation that attends the lives of racial and sexual minorities, there is no reason why these specificities cannot and should not be brought to bear on the generalizable condition of spectrality, and vice versa. Not to negotiate this tension between general and particular, between spectrality and social death, is to miss the opportunity to interrogate **how** the **social death of racial and sexual others** **is produced** in and **through the disavowal of the spectral.** The insistence on the ontology of the socially dead, in other words, merely reverses and reinscribes the division between life and death, presence and absence, that conditions the abjection of queer lives. In a passage from The Psychic Life of Power, for instance, Judith Butler addresses how we might counter the abjection of those bodies deemed expendable, “gay people, prostitutes, drug users, among others . . . [who] are dying or already dead.”9 While she asks us to consider if “‘social existence’” for the majority is purchased through “the production and maintenance of the socially dead,” she does not pursue the question of how the construction of the socially dead is predicated on the **fiction of social being, of being as presence** (PLP 27). Dedicating her work toward expanding “a field of possibilities for bodily life,” she theorizes against the insidious means by which the abjection of minority bodies produces them as “shadowy contentless figure[s] for something not yet made real.”10 **But this invocation of ontology**—**intoned in the suggestion that these ghostly shadows might someday be embodied**— would appear to conflate social death or abjection with what we are calling spectrality. **This conflation denies the possibility of the specter**, of that which is neither spirit nor body. As Derrida notes in Specters of Marx: “For there is no ghost, there is never any becoming specter of the spirit without at least an appearance of flesh. . . . For there to be a ghost, there must be a return to a body, but to a body that is more abstract than ever” (202). Although the possibility of the specter requires a certain return to the body, that body never fully returns to itself. Indeed, the return of the body to itself is forever deferred by its “hauntological” condition. Following Derrida, we might consider that all bodies live in the “shadowy regions of ontology,” **all bodies are hauntological**, not ontological. Only by virtue of the fiction of ontology do certain bodies appear to be more present than others. The social existence of the majority, of those white, male bodies that supposedly matter, is conditioned by a certain **disavowal and projection** **of** the body’s **finitude**. The socially dead are thus made to stand in for the death that haunts each and every life. While the interrogation of the body as a stable marker of identity would appear to have received its most well-known and persistent challenge in Butler’s anti-epistemological accounts of corporeality, **the equation of the body with presence remains very much intact.** Indeed, I would suggest that, despite the frequent characterization of her theorizations of corporeality as “deconstructive” by both her supporters and her most virulent critics (Nussbaum or ˇZizˇek for instance), they remain squarely within a metaphysical tradition of presence that disavows finitude, that is, within that very tradition that deconstruction has made it its mission to displace.11

Disawoval of finitude is the foundational condition for all American violence—the impact is ever-escalating cycles of destruction.

Peterson ‘7

Christopher, *Kindred Specters*: *Death, Mourning and American Affinity*, University of Minnesota Press

The popularity of Six Feet Under notwithstanding, American culture tends not to acknowledge the intimate relation among death, mourning, and kinship —no doubt because in the modern West we tend to see the barrier that separates the living and the dead as insurmountable. If we follow historian Philippe Aries on this subject, however we see that things were not always so. In contrast to the Middle Ages, in which a certain familiarity with death was displayed, a promiscuous coexistence of the living and the dead, Aries argues that the rise of **modernity witnessed an effacement and interdiction of death**. Death was to be put in its proper place, whether Its place" be the newly constructed cemeteries on the outside of the city walls or the hospitals where patients now came to die rather than to get well: "Mourning is thus no longer a necessary period on which society imposes respect. It has become a morbid state that needs to be nurtured, abridged, and erased.'!^ According to Aries, the interdiction of mourning is **nowhere more vigilant than** **in the** U**nited** S**tates,** where death is treated almost as an aberration of life. Indeed, the present study focuses on American culture precisely because the American disavowal of death is **so vehement**. Aries reads the advent of the mortuary business and the practice of embalming in the United States during the late nineteenth century as a testament to the American denial of mortality. Death could no longer be either too familiar or common, too frightening or painful: "To sell death, one must make it pleasant" (69). This transformation of death into something pleasant—in other words, something that is not death—is symptomatic of the modern segregation of the living and the dead. Following Aries, Gary Laderman traces the emergence of this peculiarly modern interdiction of death specifically to the postbellum era, which bore witness to the "birth of the death industry."^ During the Civil War, a doctor by the name of Thomas Holmes claimed to have embalmed thousands of fallen soldiers. Because most Civil War battles were fought on Southern land, the practice of embalming allowed for the preservation and repatriation of the bodies of fallen Union soldiers. Following the wartime emergence of embalming, Abraham Lincoln became the first U.S. president to have his body embalmed. Lincoln's body, as is well known, was paraded before thousands of mourning citizens on a long, cross-country journey from Washington, D.C. to Springfield, Illinois. As Laderman notes, the parading of Lincoln's body "ensured that embalming—an unacceptable treatment before the war—would change the practice of American deathways" (163). The living could now "look at the face of death and not be confronted by the gruesome details of decomposition and decay" (174). As Jessica Mitford observed in her well-known expose of the American funeral industry, The American Way of Death (1963), the undertaker "put[s] on a well-oiled performance in which the concept of death...play[s] no part whatsoever....He and his team...score an upset victory over death. While this study accords with the claim that American culture disavows mortality, I do not argue for any simple reversal of this interdiction with an aim toward affirming finitude per se. If death is beyond our experience (as Heidegger among others has observed), if I am ultimately absent from "my" own death, then strictly speaking there is nothing for me to recognize or avow. Yet **dying is something that I do every day**. Indeed, it might be more accurate to say that American culture disavows dying, understood as a process that extends from our birth to our biological demise.^ Even with such an amended formulation, however, it is not entirely clear whether dying can ever be fully affirmed or avowed. That "we live as if we were not going to die," as Zygmunt Bauman observes, "is a remarkable achievement," especially given the ease with which we disavow dying on a daily basis/ Some degree of disavowal would seem both unavoidable and necessary for our survival. Any effort to prolong one's life, from simply eating well and exercising to taking medications to prevent or treat illness, evidences this disavowal. For Bauman, however, **the disavowal of dying often has** violent **political and social** consequences. Noting the wartime imperative "to limit **our** casualties,'" for instance, Bauman remarks that ::the price of that limiting **is multiplying the dead on the other side** of the battleline" (34). Drawing from Freud's claim that, "at bottom no one believes in his own death," Bauman argues that death is "socially managed "by securing the Immortality" of the few through the mortalization of others (35, his emphasis).1^ The belief in my self-presence, which is also always a belief in my immortality, is thus **dialectically conditioned** by the nonpresence of others. Scholars in race and sexuality studies have done much to bring our attention to the ways in which American culture represents racial and sexual minorities as dead—both figuratively and literally. Indeed, this gesture both accompanies and reinforces the larger cultural dissimulation of mortality by making **racial** and **sexual others stand in for the death that haunts every life**. The history of American slavery tells a familiar story of how American consciousness disavows and projects mortality onto its ''others." Orlando Patterson has described the institution of slavery in terms of a process of kinship delegitimation that constructs slaves as "socially dead."^ For Patterson, slavery—across its various historical forms—emerges as a substitute for death, a forced bargain by which the slave retains his/her life only to enter into the liminal existence of the socially dead. As a substitution for death, slavery does not "absolve or erase the prospect of death," for the specter of material death looms over the slave's existence as an irreducible remainder (5). This primary stage in the construction of the socially dead person is followed by what Patterson refers to as the slave's "natal alienation," his/her alienation from all rights or claims of birth: in short, a severing of all genealogical ties and claims both to the slave's living blood relatives, and to his/her remote ancestors and future descendants. Although Patterson does not approach the problem of social death through a psychoanalytic vocabulary of disavowal and projection, one might say that the presumptive ontology of slave-owning, legally recognized kinship, was dependent on a deontologization of slave kinship that worked to deny the death that each life bears within itself. Building on Patterson's argument, Toni Morrison observes in Playing in the Dark that, ::for a people who made much of their newness'—their potential, freedom, and innocence—it is striking how dour, how troubled, how frightened and haunted our early and founding literature truly is."^ For Morrison, African-American slaves came to shoulder the burden of the darkness (both moral and racial) against which America defined itself. The shadow of a racialized blackness did not so much threaten the ostensible "newness" of American life as it conditioned the latter's appearance as new and free. Hence "freedom," she writes, "has no meaning...without the specter of enslavement" (56). Echoing Morrison, Russ Castronovo asserts in Necro Citizenship that nineteenth-century American politics constructed the citizen in relation to a morbid fascination with ghosts, seances, spirit rappings, and mesmerism. Taking his point of departure from Patrick Henry's infamous assertion, "give me liberty or give me death," Castronovo explores how admission into the domain of citizenship required a certain depoliticization and pacification of the subject: "The afterlife emancipates souls from passionate debates, everyday engagements, and earthly affairs that animate the political field.From Lincoln's rumored dabbling in spiritualism, to attempts by mediums to contact the departed souls of famous Americans, to a senator's introduction of a petition in 1854 asking Congress to investigate communications with the "other side"—so numerous are Castronovo's examples of what he calls "spectral politics" that we would have a difficult time contesting his diagnosis that nineteenth-century American political discourse worked to produce politically and historically dead citizens. That these citizens were constructed in tandem with the production of large slave populations— noncitizens who were urged by slavery proponents and abolitionists alike to believe that emancipation existed in a promised afterlife —would lend still more credence to the argument that nineteenth-century America propagated a dematerialized politics. One wonders, however, how Castronovo's argument sits in relation to Aries's contention that American life tends toward an interdiction of death, and if Castronovo's rejection of necropolitics, moreover, is not finally symptomatic of this very disavowal. Castronovo maintains that, 'for cultures that fear death...necrophilia promotes fascination with and helps tame an unknowable terror" (5). American necrophilia, according to Castronovo, responds to an overwhelming fear and denial of death. Castronovo thus aims to turn us away from such preoccupation with ghosts, spirits, and the afterlife toward "specific forms of corporeality," such as the laboring body, the slave body, and the mesmerized body, in order to avoid "reinserting] patterns of abstraction" (17). Yet, this move away from general to specific forms of embodiment still retains the notion of "the body," and therefore of a **self-contained, self-present entity**. If nineteenth-century politics required that the citizen be disembodied and dematerialized, it does not follow that a move toward embodiment remedies such a spiritualized politics. Although Castronovo cautions that recourse to the body "does not automatically guarantee resistance," the overall tenor of his project pathologizes the spectral (18). Indeed, one has the sense that Castronovo would like to untether politics from death altogether—as if political life is not always haunted by finitude. Reversing the terms of political necrophilia, he offers something like a political necrophobia that sees every intrusion of the spectral as synonymous with depoliticization. If nineteenth-century spiritualism infused American political life with a familiar set of distinctions between spirit/matter, soul/body, that says nothing about how these binaries might be displaced rather than merely reversed. A binaristic approach to the subject of mortality is also legible in Sharon Holland's Raising the Dead, which asserts that "bringing back the dead (or saving the living from the shadow of death) is the ultimate queer act."^ Drawing from the activist slogan "silence=death" from the early years of the AIDS epidemic, and extending this activist imperative to address the social death of sexual and racial minorities more generally, Holland observes that the deaths of queer and racial subjects serve "to ward off a nation's collective dread of the inevitable" (38). Yet, as in Castronovo's critique of necropolitics, **this imperative to "raise the dead"** reverses **rather than** **displaces** the logic through which dominant, white, heterosexual culture disavows and projects mortality onto racial and sexual minorities. While we must address the particular effects that social death has on racial and sexual minorities, this social reality must also be thought in relation to a more generalizable principle of mourning. For the "shadow of death" haunts all lives, not just queer ones. The "ultimate queer act," pace Holland, would be to deconstruct rather than reinscribe the binary between life and death**, to resist the racist and heterosexist disavowal of finitude.**

The alternative is to vote negative to endorse the politics of spectrality. This shatters the Hegelian dialectic of presence that sustains all violence against the abject.

Peterson ‘6

Christopher, “The Return of the Body: Judith Butler's Dialectical Corporealism,” Discourse, 28.2&3, Spring & Fall 2006, pp. 153-177 (Article)

Precarious Bodies

A return to ontology in Precarious Life is also legible in its tendency to reduce corporeal vulnerability to the threat of external violence. Certainly the events of 9/11 and the wars in Afghanistan and Iraq serve as devastating reminders of the body’s mortality. But corporeal vulnerability does not have its origin in external violence. Corporeal vulnerability does not commence with our exposure to others. The body’s **finitude**, its spectrality, **is inherent**. As Freud puts it, however, “at bottom no one believes in his own death. . . . Every one of us is convinced of his own immortality.”35 The political stratification that positions the socially alive against the socially dead thus also describes the unequal distribution of mortality/immortality more generally.36 If no one believes in his or her own death, then death always “happens” to others. As Heidegger observes, the recognition that “‘one dies’ spreads the opinion that death, so to speak, strikes the they” (234). For Heidegger, however, the futural “not yet” that attends the “certain” but “indeterminate” possibility of death denies how being is always “ahead of itself” in its anticipation of death. Hence, while the move from the living body to the precarious body begins to address the problem of finitude so largely absent from Butler’s earlier work, her tendency to reduce finitude to the problem of external threat and violence does not awaken to the originary mourning that haunts all bodies. **Avowing mortality** and mourning might not only forestall the violent response to 9/11, but could also challenge the reduction of America’s “internal” racial and sexual others to the liminal status of social death. The construction of the Muslim other as always already dead describes but the most recent version of a long American tradition that secures the “immortality” of the “majority” at the expense of the mortalization of the nation’s racial and sexual others. 37 Indeed, the belief that “death strikes others” is most violently felt in the domain of racial and sexual politics. What I have been calling the “redoubled ghostliness” of racial and sexual minorities describes an intimate contact with both social and material death. As Karla Holloway observes in Passed on: African-American Mourning Stories, black Americans are unusually at risk for an “untimely death,” from specific forms of racial violence, such as lynching and capital punishment, to all varieties of disease.38 Given the homophobic equation of homosexuality and death that has characterized the response to the AIDS crisis, sexual minorities also bear the burden of the death that heterosexist culture denies. Without diminishing the reality of this heightened proximity to death, however, **we must also recognize that finitude**—as a generalizable condition of existence—**always comes “before its time**.” While some of us are socially dead, we are all specters. If self-presence is always tied to the belief in one’s immortality, then **only a theory that dislodges corporeality from the present** **can challenge the unacknowledged belief that death is what happens to others.** “The ultimate queer act”—to modify Holland’s assertion with which we began—would be finally to displace the dialectic of being/non-being, to resist the racist and heterosexist disavowal of spectrality through which the abjection of queers both emerges and is sustained.

## DA

Drones solve safe havens – prevents a terror attack

Johnston 12 (Patrick B. Johnston is an associate political scientist at the RAND Corporation, a nonprofit, nonpartisan research institution. He is the author of "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," published in International Security (Spring 2012)., 8/22/2012, "Drone Strikes Keep Pressure on al-Qaida", www.rand.org/blog/2012/08/drone-strikes-keep-pressure-on-al-qaida.html)

Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them.

My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner, and their outcomes tend to favor the government or third-party country, not the militants.

Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack.

Compared to manned aircraft, drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists.

Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that the drone program has prevented numerous attacks by their potential followers, like Shazad.

What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain, the historical record suggests that "decapitation" will likely weaken the organization and could cripple its ability to conduct major attacks on the U.S. homeland.

Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely.

Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, had made running the organization not only more risky, but also more difficult.

As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature, the U.S. counter-terrorism strategy has demonstrated a degree of effectiveness.

The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods have made it more difficult for al-Qaida remnants to reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

Drones are operationally effective and alternatives are worse

Byman 13 (Daniel Byman, Brookings Institute Saban Center for Middle East Policy, Research Director, and Foreign Policy, Senior Fellow, July/Aug 2013, “Why Drones Work: The Case for the Washington's Weapon of Choice”, www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman)

Despite President Barack Obama’s recent call to reduce the United States’ reliance on drones, they will likely remain his administration’s weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused. Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage. So drone warfare is here to stay, and it is likely to expand in the years to come as other countries’ capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid. NOBODY DOES IT BETTER The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers. Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders. Critics of drone strikes often fail to take into account the fact that the alternatives are either too risky or unrealistic. To be sure, in an ideal world, militants would be captured alive, allowing authorities to question them and search their compounds for useful information. Raids, arrests, and interrogations can produce vital intelligence and can be less controversial than lethal operations. That is why they should be, and indeed already are, used in stable countries where the United States enjoys the support of the host government. But in war zones or unstable countries, such as Pakistan, Yemen, and Somalia, arresting militants is highly dangerous and, even if successful, often inefficient. In those three countries, the government exerts little or no control over remote areas, which means that it is highly dangerous to go after militants hiding out there. Worse yet, in Pakistan and Yemen, the governments have at times cooperated with militants. If the United States regularly sent in special operations forces to hunt down terrorists there, sympathetic officials could easily tip off the jihadists, likely leading to firefights, U.S. casualties, and possibly the deaths of the suspects and innocent civilians. Of course, it was a Navy SEAL team and not a drone strike that finally got bin Laden, but in many cases in which the United States needs to capture or eliminate an enemy, raids are too risky and costly. And even if a raid results in a successful capture, it begets another problem: what to do with the detainee. Prosecuting detainees in a federal or military court is difficult because often the intelligence against terrorists is inadmissible or using it risks jeopardizing sources and methods. And given the fact that the United States is trying to close, rather than expand, the detention facility at Guantánamo Bay, Cuba, it has become much harder to justify holding suspects indefinitely. It has become more politically palatable for the United States to kill rather than detain suspected terrorists. Furthermore, although a drone strike may violate the local state’s sovereignty, it does so to a lesser degree than would putting U.S. boots on the ground or conducting a large-scale air campaign. And compared with a 500-pound bomb dropped from an F-16, the grenade like warheads carried by most drones create smaller, more precise blast zones that decrease the risk of unexpected structural damage and casualties. Even more important, drones, unlike traditional airplanes, can loiter above a target for hours, waiting for the ideal moment to strike and thus reducing the odds that civilians will be caught in the kill zone. Finally, using drones is also far less bloody than asking allies to hunt down terrorists on the United States’ behalf. The Pakistani and Yemeni militaries, for example, are known to regularly torture and execute detainees, and they often indiscriminately bomb civilian areas or use scorched-earth tactics against militant groups.

The impact is US-Russia miscalc—extinction

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War involving significant fractions of the U.S. and Russian nuclear arsenals, which are by far the largest of any nations, could have globally catastrophic effects such as severely reducing food production for years, 1 potentially leading to collapse of modern civilization worldwide, and even the extinction of humanity. 2 Nuclear war between the United States and Russia could occur by various routes, including accidental or unauthorized launch; deliberate first attack by one nation; and inadvertent attack. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack. 3 (Brinkmanship strategies incorporate elements of all of the above, in that they involve intentional manipulation of risks from otherwise accidental or inadvertent launches. 4 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, and numerous measures also were taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side's forces and command-and-control capabilities led to both sides’ development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 5 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 6 However, it also has been argued that inadvertent nuclear war between the United States and Russia has continued to present a substantial risk. 7 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack. 8 False indicators of nuclear attack could be caused in several ways. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 9 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 10 especially if such an event occurs during a crisis between the United States and Russia. 11 A variety of nuclear terrorism scenarios are possible. 12 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 13 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 14 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.–Russian crisis conditions, 15 with the Cuban Missile Crisis being a prime historical example. It is possible that U.S.–Russian relations will significantly deteriorate in the future, increasing nuclear tensions. There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks. 16

Threat construction in terms of terror is good – censorship precludes prevention

**Rychlak 10** (Ronald, Professor of Law and Associate Dean for Academic Affairs, University of Mississippi School of Law; adviser to the Holy See's delegation to the United Nations., http://newsweek.washingtonpost.com/onfaith/panelists/ronald\_rychlak/2010/07/the\_language\_of\_counter-terrorism.html)

**What we call terrorists may not matter very much, but a restriction on what we can call them is of enormous importance**. In order to get to the truth of any issue, people have to be free to talk about it without fear of repercussion. Unfortunately, one of the issues around which many problems revolve - religion - is also a topic that is particularly hard to discuss freely. In our day-to-day life, we may avoid the topic with only minimal inconvenience. **When it comes to global terrorism, restricting what we say about religion can lead to devastating results**. Next month I will start the new semester by teaching a course called "Terrorism and the Law." On the very first day, I will explain to the students that we will be talking about religion even though we are at a state law school. Islam, or at least the way some people interpret Islam, is an important issue when it comes to modern terrorism. I will, of course, explain that not all Muslims agree with the terrorist tactics - or even their long term aims - and not all terrorists are Muslim, but **we can't really study modern terrorism without developing an understanding of the motivations.** Unfortunately, religion is a significant motivation underlying much modern terrorism. Four or five years ago I traveled with a group to Israel. Instead of studying the holy sites, however, the focus of our trip was on counter-terrorism. Most members of my group were college educators who taught courses on terrorism. One of them had authored a major textbook. He told me that his publisher forbid him from any discussion of religion in the book. He said that was common. Publishers were afraid that books would not be used if they ventured into that area. He also said that most experts in the field lacked the knowledge to write about religion anyway. **By keeping religion out of these textbooks and the related courses we were knowingly providing an insufficient education to our next generation of counter-terror experts**. The author said that when the book came out in its next edition (which was going to be its third), he planned to demand inclusion of religious issues. He felt that by then the book would be well enough established that he would be able to make that demand. Still, the very idea that we had been intentionally excluding important issues when discussing this topic was shocking. Of course, a private entity might fear a violent reaction such as the riots that followed the publication of those Danish political cartoons. It is not, however, only private publishing interests that feel unable to talk about religion. The United States government also has a very hard time doing it. After all, as an inclusive society, we can't really argue that a Christian or Judeo-Christian outlook is better than even "hard-line" Islam, can we? The government's inability to talk about religion reached almost comical proportions in 2003, when the Department of State launched a "cultural magazine" for young men and women in Arab-speaking countries. A special coordinator for public diplomacy in the State Department explained: "This is a long-term way to build a relationship with people who will be the future leaders of the Arab world.... This is, in a very subtle way, a vehicle for American values." "Hi" magazine focused on things like entertainment, technology, and sports. Among the early articles that I remember was one about sand-surfing and another about protecting against over-exposure to the sun. There was, of course, no direct discussion of religion or religious values. The magazine floundered for a year or two, added an English version, went online, and finally died a quiet death. It was a phenomenal waste of time and money. I don't know how we are going to resolve issues that surround our very different world views, but I am quite certain that **restricting what we say - whether that means barring topics from textbooks or rejecting the use of terms like 'Islamic terrorist' and 'jihad' - is not a good start.** Let's first be honest in our language and our discussions. That will be hard, but it is the surest way to the truth. If we get to the truth, let's hope that we can also find peace.

## Case

Baudrillard is wrong –

a) Objective knowledge is possible

Sayer 93, Department of Sociology, Lancaster University, (Andrew, “POSTMODERNIST THOUGHT IN GEOGRAPHY: A REALIST VIEW,” Antipode 25:4, pp. 320-344)

The notion of absolute truth is clearly highly problematic. It is not only that we can’t say how we could ever know that we had found it but also that it’s far from clear what it could mean to say that a statement is absolutely tru n e of some state of affairs. From this, some postmodernists conclude that truth has nothing to do with correspondence with or representation of the real, and instead is purely a matter of convention.

I shall argue that while the notion of absolute truth (or falsity) is untenable, especially where truth and falsity are seen as categorical opposites, we cannot afford to do without some kind of differentiation between the representational and practice-guiding capabilities of discourses. Thus the rejection of notions of absolute truth need not stop us differentiating between statements such as:

1. No-one died in the Gulf War.

2. Thousands died in the Gulf War.

Nor need we reduce the warrant for such statements to pure agreement or power. If science discovered absolute truths then the history of science would be unintelligible for scarcely any ideas have escaped revision. Yet presumably there is also scientific progress, otherwise we would be using quill pens and stagecoaches rather than wordprocessors and fax machines. The ability of scientists to manipulate nature has clearly increased enormously, even though their interventions often also have unforeseen effects. Accepting that knowledge is fallible does not mean that it should be taken as all equally false or true, or equally practicallyhdequate. (I will give a social example shortly.)

A common and older response to our inability to claim absolute truth for any beliefs is to say that our beliefs are therefore not objective but “individual, subjective matters of opinion.” Thus the reaction of Archer (1987:392) and Cloke et al. (1991: 169) to the acknowledged fallibility of realists’ claims about necessity in the world was to say that this admission shows them to be nothing more than matters of ”individual judgement.” Archer and Cloke et al. thus show themselves to be still in the grip of an impoverished dualism of naive objectivism and idealism, for they can apparently see no alternatives other than those of absolute truth and mere ”subjective” opinion. It hardly makes sense to say of an old “falsified” theory in science, such as that of Galileo, that it suffered from being merely subjective opinion, or the product of individual judgement. Such conclusions do justice to neither subjectivity nor objectivity. The ideas were not an isolated “subjective”opinion but were held collectively and hence were intersubjective. Moreover, up to a point, they “worked in practice; they could be objectified.

In order to understand the implications of the subjective side of knowledge, it is essential to counter a common elision between two different senses of ”objectivity” and ”subjectivity.” Objective1 can mean pertaining to objects and subjective1 can mean pertaining to subjects (i. e. , knowing subjects and their consciousness, social character, identity). “Objective2,” meaning “true,” or at least practically adequate, encourages a contrast with “subjective2” as fallible, speculative, “mere opinion,” hence as not true or cognitively inferior. The conflation of these two senses of the dualism is particularly damaging, because, by a sleight of hand it blocks the important questions: why should knowledge of external objects be superior to knowledge of self?; why should consciousness, identity and social context be assumed to be antithetical to objectivity2?; are we not interested in getting an objective2 understanding of people’s subjectivityl?

Sometimes the writer’s subjectivityl can be a hindrance, particularly where it is unacknowledged, as Deutsche (1991) and Massey (1991) argue - rightly, in my view - for Harvey’s The Condition of Postmodemity. But it doesn’t mean that it is necessarily a hindrance, or that deficiencies in an author’s account must automatically be attributable to his or her social coordinates. Sometimes, it can be an advantage, enabling people to see what others in different positions cannot see (Haraway, 1991). But it doesn’t provide any epistemological privileges: to suppose otherwise is to combine relativism (the subject is always right), the metaphysics of presence (subjects are always transparent to themselves), and empiricism (their experience validates their knowledge). The implications of an author‘s social location for the adequacy of what he or she writes is always an a posteriori matter. To acknowledge this is not to belittle the importance of the “situated character of knowledge; on the contrary, as authors such as Haraway have shown, the a posteriori question is well worth pursuing.

Whatever is accepted as true is obviously in one sense conventional, but that does not mean to say that there is no relationship of representation or correspondence. Just because knowledge does not “mirror” nature, to use Rorty’s metaphor, it does not prevent it from serving as a guide to material practice (Rorty, 1980). Whatever the difficulties of explaining what correspondence or representation might mean, the alternative of truth purely as a matter of convention is far worse, for it cannot debar “silly relativism” (another of Rorty‘s terms), according to which we can safely adhere to just any conventions. Not just anything goes (Dear, 1988). If truth were purely a matter of convention, we would be able to live by any convention we cared to invent: we don’t because we can’t. We can drop the idea of truth as absolute but we can’t ignore the relationship between discourse and the world. We can act more successfully on the basis of some conventions than others because their relationship to the structures of the world is different.

So fallibilism provides no warrant for the idea that our beliefs are unconstrained, and that people could, like Man< and Engels’ new revolutionary philosopher, believe anything they liked with impunity. If they could, they would surely be infallible. This is why idealism is so dogmatic, and why, ironically, it can support authoritarianism. The “linguistic turn” in philosophy has established that words or utterances do not refer singly and permanently to objects and that their meaning always depends on the “play of difference” within wider fields of signifiers, which are open to multiple and ever-shifting interpretations, as one text is read in the light of others. Authors or speakers are therefore never fully in control of language, there is always slippage and scope for alternative readings.

US disengagement causes nuclear war

Barnett, Professor, Warfare Analysis and Research Dept – U.S. Naval War College, 3/7/’11

(Thomas, “The New Rules: Leadership Fatigue Puts U.S., and Globalization, at Crossroads,” <http://www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads>)

Events in Libya are a further reminder for Americans that we stand at a crossroads in our continuing evolution as the world's sole full-service superpower. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job.  It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II.  Let me be more blunt: As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation.  But the world did not keep sliding down that path of perpetual war. Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace. We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts.

Life is a prerequisite to value to life and it’s inevitable

Lisa **Schwartz** [et al.], Medical Ethicist, **‘2** ([www.fleshandbones.com/readingroom/pdf/399.pdf](http://www.fleshandbones.com/readingroom/pdf/399.pdf))

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, **no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.**

Their conception of violence is reductive and can’t be solved

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Twelve Friendly Quarrels with Johan Galtung

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Kenneth Ewart Boulding (January 18, 1910 – March 18, 1993) was an economist, educator, peace activist, poet, religious mystic, devoted Quaker, systems scientist, and interdisciplinary philosopher.[1][2] He was cofounder of General Systems Theory and founder of numerous ongoing intellectual projects in economics and social science.

He graduated from Oxford University, and was granted United States citizenship in 1948. During the years 1949 to 1967, he was a faculty member of the University of Michigan. In 1967, he joined the faculty of the University of Colorado at Boulder, where he remained until his retirement.

Finally, we come to the great Galtung metaphors of 'structural violence' 'and 'positive peace'. They are metaphors rather than models, and for that very reason are suspect. Metaphors always imply models and metaphors have much more persuasive power than models do, for models tend to be the preserve of the specialist. But when a metaphor implies a bad model it can be very dangerous, for it is both persuasive and wrong. The metaphor of structural violence I would argue falls right into this category. The metaphor is that poverty, deprivation, ill health, low expectations of life, a condition in which more than half the human race lives, is 'like' a thug beating up the victim and 'taking his money away from him in the street, or it is 'like' a conqueror stealing the land of the people and reducing them to slavery. The implication is that poverty and its associated ills are the fault of the thug or the conqueror and the solution is to do away with thugs and conquerors. While there is some truth in the metaphor, in the modern world at least there is not very much. Violence, whether of the streets and the home, or of the guerilla, of the police, or of the armed forces, is a very different phenomenon from poverty. The processes which create and sustain poverty are not at all like the processes which create and sustain violence, although like everything else in 'the world, everything is somewhat related to everything else. There is a very real problem of the structures which lead to violence, but unfortunately Galitung's metaphor of structural violence as he has used it has diverted attention from this problem. Violence in the behavioral sense, that is, somebody actually doing damage to somebody else and trying to make them worse off, is a 'threshold' phenomenon, rather like the boiling over of a pot. The temperature under a pot can rise for a long time without its boiling over, but at some 'threshold boiling over will take place. The study of the structures which underlie violence are a very important and much neglected part of peace research and indeed of social science in general. Threshold phenomena like violence are difficult to study because they represent 'breaks' in the systenm rather than uniformities. Violence, whether between persons or organizations, occurs when the 'strain' on a system is too great for its 'strength'. The metaphor here is that violence is like what happens when we break a piece of chalk. Strength and strain, however, especially in social systems, are so interwoven historically that it is very difficult to separate them. The diminution of violence involves two possible strategies, or a mixture of the two; one is Ithe increase in the strength of the system, 'the other is the diminution of the strain. The strength of systems involves habit, culture, taboos, and sanctions, all these 'things which enable a system to stand lincreasing strain without breaking down into violence. The strains on the system 'are largely dynamic in character, such as arms races, mutually stimulated hostility, changes in relative economic position or political power, which are often hard to identify. Conflicts of interest 'are only part 'of the strain on a system, and not always the most important part. It is very hard for people ito know their interests, and misperceptions of 'interest take place mainly through the dynamic processes, not through the structural ones. It is only perceptions of interest which affect people's behavior, not the 'real' interests, whatever these may be, and the gap between percepti'on and reality can be very large and resistant to change. However, what Galitung calls structural violence (which has been defined 'by one unkind commenltator as anything that Galitung doesn't like) was originally defined as any unnecessarily low expectation of life, on that assumption that anybody who dies before the allotted span has been killed, however unintentionally and unknowingly, by somebody else. The concept has been expanded to include all 'the problems of poverty, destitution, deprivation, and misery. These are enormously real and are a very high priority for research and action, but they belong to systems which are only peripherally related to 'the structures whi'ch produce violence. This is not rto say that the cultures of violence and the cultures of poverty are not sometimes related, though not all poverty cultures are cultures of violence, and certainly not all cultures of violence are poverty cultures. But the dynamics lof poverty and the success or failure to rise out of it are of a complexity far beyond anything which the metaphor of structural violence can offer. While the metaphor of structural violence performed a service in calling attention to a problem, it may have d'one a disservice in preventing us from finding the answer.

Quality of life is skyrocketing worldwide by all measures

Ridley, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer, 2010

(Matt, *The Rational Optimist*, pg. 13-15)

If my fictional family is not to your taste, perhaps you prefer statistics. Since 1800, the population of the world has multiplied six times, yet **average life expectancy has more than doubled and real income has risen more than nine times**. Taking a shorter perspective, in 2005, compared with 1955, the average human being on Planet Earth earned nearly three times as much money (corrected for inflation), ate one-third more calories of food, buried one-third as many of her children and could expect to live one-third longer. She was less likely to die as a result of war, murder, childbirth, accidents, tornadoes, flooding, famine, whooping cough, tuberculosis, malaria, diphtheria, typhus, typhoid, measles, smallpox, scurvy or polio. She was less likely, at any given age, to get cancer, heart disease or stroke. She was more likely to be literate and to have finished school. She was more likely to own a telephone, a flush toilet, a refrigerator and a bicycle. All this during a half-century when the world population has more than doubled, so that far from being rationed by population pressure, the goods and services available to the people of the world have expanded. It is, by any standard, an astonishing human achievement. Averages conceal a lot. **But even if you break down the world into bits**, **it is hard to find any region that was worse off in 2005 than it was in 1955**. Over that half-century, real income per head ended a little lower in only six countries (Afghanistan, Haiti, Congo, Liberia, Sierra Leone and Somalia), life expectancy in three (Russia, Swaziland and Zimbabwe), and infant survival in none. In the rest they have rocketed upward. Africa’s rate of improvement has been distressingly slow and patchy compared with the rest of the world, and many southern African countries saw life expectancy plunge in the 1990s as the AIDS epidemic took hold (before recovering in recent years). There were also moments in the half-century when you could have caught countries in episodes of dreadful deterioration of living standards or life chances – China in the 1960s, Cambodia in the 1970s, Ethiopia in the 1980s, Rwanda in the 1990s, Congo in the 2000s, North Korea throughout. Argentina had a disappointingly stagnant twentieth century. But overall, after fifty years, **the outcome for the world is** remarkably, astonishingly, **dramatically positive**. The average South Korean lives twenty-six more years and earns fifteen times as much income each year as he did in 1955 (and earns fifteen times as much as his North Korean counter part). The average Mexican lives longer now than the average Briton did in 1955. The average Botswanan earns more than the average Finn did in 1955. **Infant mortality is lower today in Nepal than it was in Italy in 1951**. The proportion of Vietnamese living on less than $2 a day has dropped from 90 per cent to 30 per cent in twenty years. The rich have got richer, but the poor have done even better. **The poor in the developing world grew their consumption twice as fast as the world as a whole between 1980 and 2000**. The Chinese are ten times as rich, one-third as fecund and twenty-eight years longer-lived than they were fifty years ago. Even Nigerians are twice as rich, 25 per cent less fecund and nine years longer-lived than they were in 1955. **Despite a doubling of the world population**, even **the raw number of people living in absolute poverty** (defined as less than a 1985 dollar a day) **has fallen since the 1950s**. The percentage living in such absolute poverty has dropped by more than half – to less than 18 per cent. That number is, of course, still all too horribly high, but the trend is hardly a cause for despair: at the current rate of decline, it would hit zero around 2035 – though it probably won’t. The United Nations estimates that poverty was reduced more in the last fifty years than in the previous 500.

Diagnosis of problems in our methodology fails in the absence of a positive alternative. Only PRAGMATIC POLICY options can break this deadlock

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Reading orientalism: said and the unsaid (Google eBook)

Dr. Daniel Martin Varisco is chair of anthropology and director of Middle Eastern and Central Asia studies at Hofstra University. He is fluent in Arabic and has lived in the Middle East (Yemen, Egypt, Qatar) for over 5 years since 1978. He has done fieldwork in Yemen, Egypt, Qatar, U.A.E. and Guatemala.

In sum, the essential argument of Orientalism is that a pervasive and endemic Western discourse of Orientalism has constructed "the Orient," a representation that Said insists not only is perversely false but prevents the authentic rendering of a real Orient, even by Orientals themselves. Academicized Orientalism is thus dismissed, in the words of one critic, as "the magic wand of Western domination of the 0rient."283i The notion of a single conceptual essence of Orient is the linchpin in Said's polemical reduction of all Western interpretation of the real or imagined geographical space to a single and latently homogeneous discourse. Read through Orientalism and only the Orient of Western Orientalism is to be encountered; authentic Orients are not imaginable in the text. The Orient is rhetorically available for Said simply by virtue of not really being anywhere. Opposed to this Orient is the colonialist West, exemplified by France, Britain, and the United States. East versus West, Occident over Orient: this is the debilitating binary that has framed the unending debate over Orientalism. A generation of students across disciplines has grown up with limited challenges to the polemical charge by Said that scholars who study the Middle East and Islam still do so institutionally through an interpretive sieve that divides a superior West from an inferior East. Dominating the debate has been a tiresome point/counterpoint on whether literary critic Edward Said or historian Bernard Lewis knows best. Here is where the dismissal of academic Orientalism has gone wrong. Over and over again the same problem is raised. Does the Orient as several generations of Western travelers, novelists, theologians, politicians, and scholars discoursed it really exist? To not recognize this as a fundamentally rhetorical question because of Edward Said is, nolo contendere, nonsense. No serious scholar can assume a meaningful cultural entity called "Orient" after reading Said's Orientalism; some had said so before Said wrote his polemic. Most of his readers agreed with the thrust of the Orientalism thesis because they shared the same frustration with misrepresentation. There is no rational retrofit between the imagined Orient, resplendent in epic tales and art, and the space it consciously or unwittingly misrepresented. However, there was and is a real Orient, flesh-and-blood people, viable cultural traditions, aesthetic domains, documented history, and an ongoing intellectual engagementwith the past, present, and future. What is missing from Orientalism is any systematic sense of what that real Orient was and how individuals reacted to the imposing forces that sought to label it and theoretically control it. ASLEEP IN ORIENTALISM'S WAKE I have avoided taking stands on such matters as the real, true or authentic Islamic or Arab world. —EDWARD SAID, "ORIENTALISM RECONSIDERED" Orientalism is frequently praised for exposing skeletons in the scholarly closet, but the book itself provides no blueprint for how to proceed.=84 Said's approach is of the cut-and-paste variety—a dash of Foucauldian discourse here and a dram of Gramscian hegemony there—rather than a howto model. In his review of Orientalism, anthropologist Roger Joseph concludes: Said has presented a thesis that on a number of counts is quite compelling. He seems to me, however, to have begged one major question. If discourse, by its very metanature, is destined to misrepresent and to be mediated by all sorts of private agendas, how can we represent cultural systems in ways that will allow us to escape the very dock in which Said has placed the Orientalists? The aim of the book was not to answer that question, but surely the book itself compels us to ask the question of its author.a85 Another cultural anthropologist, Charles Iindholm, criticizes Said's thesis for its "rejection of the possibility of constructing general comparative arguments about Middle Eastern cultures.286 Akbar Ahmed, a native Pakistani trained in British anthropology, goes so far as to chide Said for leading scholars into "an intellectual cul-de- sac."287 For a historian's spin, Peter Gran remarks in a favorable review that Said "does not fully work out the post-colonial metamorphosis."288 As critic Rey Chow observes, "Said's work begs the question as to how otherness—the voices, languages, and cultures of those who have been and continue to be marginalized and silenced— could become a genuine oppositional force and a usable value." Said's revisiting and reconsidering of Orientalism, as well as his literary expansion into a de-geographicalized Culture and Imperialism, never resolved the suspicion that the question still goes begging. There remains an essential problem. Said's periodic vacillation in Orientalism on whether or not the Orient could have a true essence leads him to an infinity of mere representations, presenting a default persuasive act by not representing that reality for himself and the reader. If Said claims that Orientalism created the false essence of an Orient, and critics counterclaim that Said himself proposes a false essence of Orientalism, how do we end the cycle of guilt by essentialization? Is there a way out of this epistemologieal morass? If not a broad way to truth, at least a narrow path toward a clearing? With most of the old intellectual sureties now crumbling, the prospect of ever finding a consensus is numbing, in part because the formidably linguistic roadblocks are—or at least should be—humbling. The history of philosophy, aided by Orientalist and ethnographic renderings of the panhumanities writ and unwrit large, is littered with searches for meaning. Yet, mystical ontologies aside, the barrier that has thus far proved unbreachable is the very necessity of using language, reducing material reality and imaginary potentiality to mere words. As long as concepts are essential for understanding and communication, reality—conterminous concept that it must be—will be embraced through worded essences. Reality must be represented, like it or not, so how is it to be done better? Neither categorical nor canonical Truth" need be of the essence. One of the pragmatic results of much postmodern criticism is the conscious subversion of belief in a singular Truth" in which any given pronouncement could be ascribed the eternal verity once reserved for holy writ. In rational inquiry, all truths are limited by the inescapable force of pragmatic change. Ideas with "whole truth" in them can only be patched together for so long. Intellectual activity proceeds by characterizing verbally what is encountered and by reducing the complex to simpler and more graspable elements. A world without proposed and debated essences would be an unimaginable realm with no imagination, annotation without nuance, activity without art. I suggest that when cogito ergo sum is melded with "to err is human," essentialization of human realities becomes less an unresolvable problem and more a profound challenge. Contra Said's polemical contentions, not all that has been created discursively about an Orient is essentially wrong or without redeeming intellectual value. Edward Lane and Sir Richard Burton can be read for valuable firsthand observations despite their ethnocentric baggage. Wilfrid and Anne Blunt can be appreciated for their moral suasion. TheJ 'accuse of criticism must be tempered constructively with the louche of everyday human give-and-take. In planed biblical English, it is helpful to see that the beam in one's own rhetorical eye usually blocks appreciation of the mote in the other's eye. Speaking truth to power a la Said's oppositional criticism is appealing at first glance, but speaking truths to varieties of ever-shifting powers is surely a more productive process for a pluralistic society. As Richard King has eloquently put it, "Emphasis upon the diversity, fluidity and complexity within as well as between cultures precludes a reification of their differences and allows one to avoid the kind of monadic essentialism that renders cross-cultural engagement an a priori impossibility from the outset."2?0 Contrasted essentialisms, as the debate over Orientalism bears out, do not rule each other out. Claiming that an argument is essentialist does not disprove it; such a ploy serves mainly to taint the ideas opposed and thus tends to rhetorically mitigate opposing views. Thesis countered by antithesis becomes sickeningly cyclical without a willingness to negotiate synthesis. The critical irony is that Said, the author as advocate who at times denies agency to authors as individuals, uniquely writes and frames the entire script of his own text. Texts, in the loose sense of anything conveniently fashioned with words, become the meter for Said's poetic performance. The historical backdrop is hastily arranged, not systematically researched, to authorize the staging of his argument. The past becomes the whiggishly drawn rationale for pursuing a present grievance. As the historian Robert Berkhofer suggests, Said "uses many voices to exemplify the stereotyped view, but he makes no attempt to show how the new self/other relationship ought to be represented. Said's book does not practice what it preaches multiculturally."29i Said's method, Berkhofer continues, is to "quote past persons and paraphrase them to reveal their viewpoints as stereotyped and hegemonic." Napoleon's savants, Renan's racism, and Flaubert's flirtations serve to accentuate the complicity of modern-day social scientists who support Israel. Orientalism is a prime example of a historical study with one voice and one viewpoint. Some critics have argued in rhetorical defense of Said that he should not be held accountable for providing an alternative. The voice of dissent, the critique (of Orientalism or any other hegemonic discourse) does not need to propose an alternative for the critique to be effective and valid," claim Ashcroft and Ahluwalia.29= Saree Makdisi suggests that Said's goal in Orientalism is "to specify the constructedness of reality" rather than to "unmask and dispel" the illusion of Orientalist discourse.=93 Timothy Brennan argues that Said's aim is not to describe the "brute reality" of a real Orient but rather to point out the "relative indifference" of Western intellectuals to that reality.=94 Certainly no author is under an invisible hand of presumption to solve a problem he or she wishes to expose. Yet, it is curious that Said would not want to suggest an alternative, to directly engage the issue of how the "real" Orient could be represented. He reacts forcefully to American literary critics of the "left" who fail to specify the ideas, values, and engagement being urged.=95 If, as Said, insists "politics is something more than liking or disliking some intellectual orthodoxy now holding sway over a department of literature,"=9'6 then why would he not follow through with what this "something more" might be for the discourse he calls Orientalism? As Abdallah Laroui eloquently asks, "Having become concerned with an essentially political problem, the Arab intelligentsia must inevitably reach the stage where it passes from diagnosis of the situation to prescription of remedial action. Why should I escape this rule?"=97 This is a question that escapes Edward Said in Orientalism, although it imbues his life work as an advocate against ethnocentric bias. CLASH TALKING AD NAUSEAM The questioning of whether or not there really is an Orient, a West, or a unified discourse called Orientalism might be relatively harmless philosophical musing, were it not for the contemporary, confrontational political involvement of the United States and major European nations with buyable governments and bombable people in the Middle East. One of the reasons Said's book has been so influential, especially among scholars in the emerging field of post-colonial studies, is that it appeared at the very moment in which the Cold War divide reached a zenith in Middle East politics. In 1979, the fall of the United States-backed and anti-communist Shah allowed for the creation of the first modern Islamic republic in Iran, even as the Soviet Union invaded Afghanistan to try to prevent the same thing happening there. Almost three decades later, the escalation of tension and violence sometimes described as "Islamic terrorism" has become a pressing global concern. In the climate of renewed American and British political engagement in Afghanistan and Iraq after September 11, 2001, the essential categories of East and West continue to dominate public debate through the widely touted mantra of a "clash of civilizations.\* The idea of civilizations at war with each other is probably as old as the very idea of civilization. The modern turn of phrase owes its current popularity to the title of a 1993 Foreign Affairs article by political historian Samuel Huntington, although this is quite clearly a conscious borrowing from a 1990 Atlantic Monthly article by Said's nemesis, Bernard Lewis. Huntington, speculating in an influential policy forum, suggests that Arnold Toynbee's outdated list of twenty-one major civilizations had been reduced after the Cold War to six, to which he adds two more. With the exception of his own additions of Latin America and Africa, the primary rivals of the West, according to his list, are currently Confucian, Japanese, Islamic, Hindu, and Slavic-Orthodox. To say, as Huntington insists, that the main criterion separating these civilizations is religion, given the labels chosen, borders on the tautological.2?8 But logical order here would suggest that the West be seen as Christian, given its dominant religion. In a sense, Huntington echoes the simplistic separation of the West from the Rest, for secular Western civilization is clearly the dominant and superior system in his mind. The rejection of the religious label for his own civilization, secular as it might appear to him, seriously imbalances Huntington's civilizational breakdown. It strains credulity to imagine that religion in itself is an independent variable in the contemporary world of nation-states that make up the transnationalized mix of cultural identities outside the United Sates and Europe. Following earlier commentary of Bernard Lewis, Huntington posits a "fault line" between the West and Islamic civilization ever since the Arabs were turned back in 732 CE at the Battle of Tours.=99 The fault of Islam, however, appears to be less religious than politie-al and ideological. The fundamental clash Huntington describes revolves around the seeming rejection by Islam (and indeed all the rest) of "Western ideas of individualism, liberalism, constitutionalism, human rights, equality, liberty, the rule of law, democracy, free markets, the separation of church and state/300 In citing this neoconservative laundry list, Huntington is blind to the modern history of Western nations. He assumes that these idealized values have in fact governed policy in Europe and America, as though divine kingship, tyranny, and fascism have not plagued European history. Nor is it credible to claim that such values have all been rejected by non-Western nations. To assert, for example, that the rule of law is not consonant with Islam, or that Islamic teaching is somehow less concerned with human rights than Western governments, implies that the real clash is between Huntington's highly subjective reading of a history he does not know very well and a current reality he does not like. Huntington's thesis was challenged from the start in the very next issue of Foreign Affairs. "But Huntington is wrong," asserts Fouad Ajami.301 Even former U. N. Ambassador Jeane Kirkpatrick, hardly a proponent of postcolonial criticism, called Huntington's list of civilizations 'strange."3°= Ironically, both Ajami and Kirkpatrick fit Said's vision of bad-faith Orientalism. Being wrong in the eyes of many of his peers did not prevent Huntington from expanding the tentative proposals of a controversial essay into a book, nor from going well outside his field of expertise to write specifically on the resurgence of Islam. Soon after the September 11,2001, tragedy, Edward Said weighed in with a biting expose on Huntington's "clash of ignorance." Said rightly crushes the blatant political message inherent in the clash thesis, explaining why labels such as "Islam\* and "the West" are unedifying: They mislead and confuse the mind, which is trying to make sense of a disorderly reality that won't be pigeonholed or strapped down as easily as all that."3°3 Exactly, but the same must therefore be true about Said's imagined discourse of Orientalism. Pigeonholing all previous scholars who wrote about Islam or Arabs into one negative category is discursively akin to Huntington's pitting of Westerners against Muslims. Said is right to attack this pernicious binary, but again he leaves it intact by not posing a viable alternative. Both Edward Said and Fouad Ajami, who rarely seem to agree on anything, rightly question the terms of Huntington's clash thesis. To relabel the Orient of myth as a Confucian-Islamic military complex is not only ethnocentric but resoundingly ahistorical. No competent historian of either Islam or Confucianism recognizes such a misleading civilizational halfbreed. Saddam Hussein's Iraq and Kim Jong Il's Korea could be equated as totalitarian states assumed to have weapons of mass destruction, but not for any religious collusion. This is the domain of competing political ideologies, not the result of religious affiliation. And, as Richard Bulliet warns, the phrase "clash of civilizations\* so readily stirs up Islamophobia in the United States that it "must be retired from public discourse before the people who like to use it actually begin to believe it."3°4 Unfortunately, many policy-makers and media experts talk and act as if they do believe it. The best way to defeat such simplistic ideology, I suggest, is not to lapse into blame-casting polemics but to encourage sound scholarship of the real Orient that Said so passionately tried to defend.

Epistemology first is morally bankrupt in this instance – it allows violence to go unstopped

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, August 2008, Response to Tom Farer's "Un-just War Against Terrorism and the Struggle to Appropriate Human Rights", Human Rights Quarterly Volume 30, Number 3

This section is devoted to what might be called a quasi-conspiracy theory. There are real neo-cons and then there are people who appear not to be but really, deep down, are, whether they themselves know it or not. It appears that mind reading is one of Farer's accomplishments: he can discern what people really think. I recall Hannah Arendt's quite caustic comments on this sort of thing as she responded to critics of her book, Eichmann in Jerusalem.8 She was called a "self-hating Jew," whether she recognized it or not. She fired back that there is no way to defend oneself against such a charge. By denying it you only confirm it in the eyes of those who traffic in this sort of thing: thus, according to Farer, I "appear" to embrace certain values. All I can say, really, is that my record speaks for itself. If Farer had bothered to read, for instance, my essays on the work I did with the Mothers of the Plaza de Mayo in Argentina, protesting state sponsored terror in that country, or the arguments in many of my books, including my intellectual biography of the great Jane Addams, perhaps he would be less quick on the trigger, who knows?9 He is mightily fired up and accuracy has little to do with it. One should note the rhetoric he deploys: neo-conservatives are a "sect," not an intellectually serious political position. Farer knows how we think about "sects"—conspiratorially oriented, inward-looking, brain-washing sorts of things. I cannot offer a blow-by-blow defense of my book, Just War Against Terror,10 for want of space, whether in this or subsequent sections of Farer's essay. Just one other brief note on this section: Farer claims that I say that no plausible change in US policy could assuage "Muslim" wrath. I say nothing about "Muslim" wrath. My target is quite specifically radical Islamist jihadism, not Muslim as such. I, for one, do not want to equate Muslim to jihadist. My argument, in sum, is that we make a major mistake if we fail to take seriously the arguments the terrorists make for why they are doing what they are doing. Unlike Farer, I think one should take people at their word. The attackers of 9/11 did not "appear" to be religiously inspired murderers—they unabashedly were such. Muhammed Atta proclaimed clearly his hatred of women (no woman or other "unclean person" should be allowed to visit his grave), his hatred of the United States as an unclean and immoral nation, his devotion to the idea of restoration of the caliphate, and so on. A number of studies by serious political scientists have been done debunking the "poverty" thesis—that poor conditions lead to terrorism—by pointing out that the overwhelming majority of the poor in Arab countries never resort to terrorism and that the 9/11 attackers were educated and middle-class—and Europeanized.

III. This is the most sober and compelling section of Farer's essay and well worth reading. Again, I can offer just a few comments that might be helpful. The events of 9/11 certainly constituted a casus belli. What complicates that is not the act itself but the fact that it was carried out by a sub-state actor under the auspices of a sponsoring state, Afghanistan under Taliban misrule. (And Farer does acknowledge it as misrule.) Farer also recognizes that security needs and individual liberties are never in absolute categories but vary according to the situation in which a human rights respecting nation finds itself. I doubt that in the US we would go along with his suggestion that we might need to follow Europe in issuing identity cards, and so on. I do appreciate the fact that he appears to recognize Justice Jackson's insistence that the Constitution is not a "suicide pact." As to his discussion of just war criteria: if a state is de jure sovereign it has the right to make determinations in its own behalf. The United States is a sovereign entity. It follows that it is the final judge of its security needs. These may be evaluated badly or well [End Page 762] but it just is not the case that the United States, or any other state, ceded sovereignty to join the United Nations. Indeed, a tension at the very heart of the United Nations lies in the fact that it is a collective body composed of sovereign states—each, therefore, possessing the right to make determinations in its own behalf. I, therefore, do not think the locus of "legitimate authority" is that controversial if one is talking about a sovereign state. It becomes more problematic if one considers, say, the Serbian action undertaken in the Clinton era under the auspices of NATO. Whether NATO constitutes such legitimate authority poses an interesting question.

But, once again, Farer turns himself into a mind reader and argues that at the time I was writting my book it was "already known" that the "Bush administration had decided to invade Iraq."11 I completed my book in the summer of 2002, and I did not know that. There seemed some strong probabilities along that line but I had no inside information about a done deal. If that were the case, why did the Bush administration bother going through the United Nations at all? (Farer also fails to note that we were not alone in this endeavor.) As to weapons of mass destruction (WMD), I would only point out that Secretary of State Madeline Albright declared that Saddam possessed sufficient weapons of mass destruction to destroy all of humanity. At the time, I did not think to call Albright a liar. I had no reason to doubt her—or President Clinton—who declared the same thing. (But, in typically Clintonian ways, he has done an instant rewrite of his own history. The record, however, is clear.) It was assessments of this sort that led to the Iraq Liberation Act, 1998, under Clinton. There were strong urgencies within the Clinton administration to invade Iraq, but the view was that the president had been too damaged by the Lewinsky affair to lead the charge. As to the idea that if one invades in one terrible situation on the basis of human rights it becomes a precedent for going everywhere there are violations—this is not the case. Clearly. Because one cannot take up the task in one situation does not mean one should take up the task in another situation. When people say, for example, "Why not North Korea," the answer is obvious: North Korea possesses nuclear weapons and has declared that it will take out Seoul if it thinks an invasion is imminent. Our hands are tied by the realities of power in many situations. That is the fact of the matter and the explanation for why the US could do nothing during the Hungarian revolt of 1956. Farer appears to be unfamiliar with my several published essays on the aftermath of the Persian Gulf War under President George H.W. Bush and my criticism of the fact that just war criteria were evoked before the invasion and during the active fighting but then abandoned in favor of "realism" in the aftermath. I am simply not guilty of the charge he levels against me of [End Page 763] having said nothing about harms to the Iraqi people in the "end game" of that war. Finally, Farer makes the entire issue of what to do about unlawful combatants—unlawful under just war criteria and the basic universal codes of war. Do they warrant the full panoply of Geneva Convention protections if they are prisoners? Here one is in a legal no-man's land of sorts where much remains to be sorted out. I am on record as favoring such extension, something Farer doesn't mention, but I realize it is a tricky problem. Farer cites Professor David Cole as his primary interlocutor on these issues. It is only fair to point out that Cole is a regular contributor to the left-wing (not liberal) journal The Nation. I do not believe this disqualifies him in any way to comment but, certainly, were an expert to publish regularly in, say, The Weekly Standard, every word they said would be considered tainted by Farer. It is in this way that he limits his universe of legitimate interlocutors. Our leading just war theorist, my friend Michael Walzer of the Institute for Advanced Study, has written recently about what he calls "zones" that are neither zones of war nor zones of peace.12 What norms, rules, laws cover these zones, this no-man's land? Much remains to be sorted out. On torture, again, Farer seems unfamiliar with my major essay on the subject, published in Sanford Levinson's edited volume, Torture, published by the Oxford University Press.13 I can only suggest that the fair-minded reader look to it. IV.

In this final section, Farer says things that are unfair and quite offensive. He states that it is "apparently the case" that my philosophical interests do not extend to epistemology—a rather snide put-down. If he were interested, he could readily have found numerous essays, book chapters, and sections of my books in which epistemology is the major issue. I began writing about epistemology twenty-five years or so ago. Let me suggest one essay: "Methodological Sophistication and Conceptual Confusion: A Critique of Mainstream Political Science."14 Or, more recently, a long discussion in my book: Who Are We? Critical Reflections and Hopeful Possibilities.15 There is much more. Am I alone in thinking that should a critic criticize someone for one being interested in a subject matter, it is his or her job to determine [End Page 764] whether the person being criticized has devoted a share of his or her scholarly life to this subject matter? Is this an unreasonable suggestion? Farer speaks of "willed blindness" and says that hate "blinds us as war silences us."16 The "war silences us" is pretty silly given that he and others have written an essay, a book, and one op-ed after another on the subject. This doesn't seem much like silencing. It is rather amusing, at times, to watch celebrities who have decided they know something about politics shout loudly on network television that they are being silenced—even as this plaint is uttered to millions and millions of viewers! What they appear to mean by this is that many people disagree with them. They do not want debate, and if there is debate they are somehow being silenced. This doesn't seem a strong commitment to robust democratic debate. I have a sense that this is what Farer objects to also—he really cannot abide the fact that there are significant numbers of people who disagree with part or all of his argument. He also lists as one criterion for being a liberal that you "despise President Bush and his colleagues" and you doubt that they are "good and decent people."17 Let me get this straight. I am blinded by hate but a good liberal "despises" the president and anyone and everyone who has anything to do with him. This seems pretty close to hate to me. I have never said anything of the sort save against dictators and regimes that systematically brutalize their own people: I do despise them.

There is no time to go over the history of the Cold War and the unified front of Republicans and Democrats that pertained—with some differences, of course—in the struggle against the Soviet Union. I am accused again of "shabby ploys"—he cites a footnote in which I mention "German intellectuals." 18 This was a note about the fact that a group of German intellectuals—I don't know what else to call them as they were German and they were intellectuals—who denounced the statement of which I was one of the authors and signatories called "What We're Fighting For." The signatories included Republicans and Democrats—a diverse lot. And that statement concluded with words borrowed from Lincoln's First Inaugural and was addressed to the Muslim communities in general: We are not enemies but friends. We must not be enemies. That call to dialogue was responded to by some in the Arab world with vituperation—including one statement signed by a gentleman who teaches the Protocols of the Elders of Zion in his courses—but by others with a serious affirmative to our call. That statement led to the Malta Forum about which I have already spoken. I will quite happily put up with attacks from the likes of Professor Farer if I must so long as I am involved, as I am, with a transnational, transreligious dialogue with Muslim colleagues. [End Page 765] That is the heart of the matter, I think, and not swatting back charges of being willfully blind and the like. As I indicated earlier, I doubt Muslim Arab intellectuals would care to be involved with people who hate them.

In his conclusion, Farer underscores that Israel is brutal, the United States is brutal, murderous rage is justified given the many grievances in the Middle East—why are these grievances not more properly channeled against the largely autocratic regimes that have misruled most Arab societies for too long? Once again, I am an echo of neo-cons or channeling them—or whatever. He then flatly calls my book a "neo-conservative polemic."19 I assume he would put Paul Berman, despite the fact that he identifies as a democratic socialist, in the same camp for his book, Terror and Liberalism, his stalwart defense of liberalism, his strong argument against terrorism, and his later support for the Iraq War.20 Once again it is clear that Farer, and he is not alone in this, cannot abide dissent, especially from those who cannot clearly be put into some monolithic ideological camp or another. This murkiness stymies him—so he decides he must tidy things up and put people into categories. He cannot resist the charge of "blind hate" one final time and then he claims I "parroted rather than practiced the ideals of Augustinian realism" as we search for a "just exit."21 On this last outlandish charge, I can only suggest he read my book, Augustine and the Limits of Politics, before he decides if I'm parroting or not.22 (If that is what I am doing, it would make sense for me to be rather persona non grata in the world of Augustinian scholars and that has not happened.) On a just exit, I suggest my essay on the ethics of exit in the current issue of World Affairs.23 I hope that at least a few readers who are unfamiliar with my work will read the book Farer attacks plus a smattering of other essays and come to their own judgments in this matter. [End Page 766]

# 2NC

## 1nc race

Engaging the law through in-depth debate is critical to solve their impacts

Harris, professor of law – UC Berkeley, ‘94

(Angela P., 82 Calif. L. Rev. 741)

CRT has taken up this method of internal critique. Like the crits, race-crits have tried to go beyond espousing Doctrine X over Doctrine Y, claiming instead to show that both doctrines are biased against people of color from the outset. n33 For example, as Brooks and Newborn note, the CRT critique of equal protection law challenges not only the "intent" test of Washington v. Davis, n34 but the understanding of racism on which that test is based. n35 And, as Farber notes, the CRT critique of affirmative action challenges the very notion of "merit." n36 This commitment to conceptual as well as doctrinal critique is CRT's radicalism - its attempt to dig down to the very roots of legal doctrine, in contrast with the more reformist bent of traditional civil rights scholarship. Following the first wave's announcement that law is not separate from politics, the second wave of CLS moved to the study of law as "rhetoric" - [\*748] the ways in which legal reasoning accomplishes its ideological effects. n37 Second wave crits have attempted to examine how binary thinking in the law is produced and how it reflects larger historical processes of bureaucratization and commodification. In so doing, the second wave of CLS has found no "there" there beneath the rhetoric of law. Where first wave crits assumed that beneath law's indeterminacy was a "fundamental contradiction" in the human condition itself, n38 or relied on the existence of moments of unalienated, authentic "being" in the world, n39 second wave crits have begun to question whether the very assumption of a human condition separate from the language we use to talk about it makes sense. I call this mood of profound doubt and skepticism "postmodernist." There are as many different definitions of postmodernism as there are postmodernists. n40 As law professors have understood the term, n41 however, [Postmodernism] suggests that what has been presented in our social-political and our intellectual traditions as knowledge, truth, objectivity, and reason are actually merely the effects of a particular form of social power, the victory of a particular way of representing the world that then presents itself as beyond mere interpretation, as truth itself. n42 Postmodernism's strength is in its corrosiveness. First wave crits insisted that law functions as a mask for power; second wave crits question the first wave's faith in "unmasking" itself. The effort to expose law as ideology assumed that it was possible, through the force of critique, to suddenly see the way things "really" are in a flash of enlightenment. But the [\*749] second wave crits doubt this very reliance on a "real reality" underlying ideology. Instead, they suggest that ideology is all there is. n43 Postmodernist critique is congenial to race-crits, who had already drawn from history the lesson that "racism" is no superficial matter of ignorance, conscious error, or bigotry, but rather lies at the very heart of American - and western - culture. In one of the foundational articles of CRT, Kimberle Crenshaw notes that the civil rights movement achieved material and symbolic gains for blacks, yet left racist ideology and race-baiting politics intact. n44 In Crenshaw's view, the crits' critiques did not go far enough to expose the racism in legal reasoning and legal institutions. Derrick Bell argues that racism is a permanent feature of the American landscape, not something that we can throw off in a magic moment of emancipation. n45 And in a moment of deep pessimism, Richard Delgado's fictional friend "Rodrigo Crenshaw" has suggested that racism is an intrinsic feature of "The Enlightenment" itself. n46 **The deeper that race-crits dig, the more embedded racism seems to be**; the deeper the race-crit critique of western culture goes, the more useful postmodernist philosophy becomes in demonstrating that nothing should be immune from criticism. By calling everything taken for granted into question, postmodernist critique potentially clears the way for alternative accounts of social reality, n47 including accounts that place racism at the center of western culture. Thus, Gerald Torres has identified postmodernism as a useful position from which to criticize both theories of interest-group and "communitarian" politics. n48 Anthony Cook sees deconstruction, a postmodernist method of reading texts, as potentially "liberatory" for progressive scholars of color. n49 [\*750] And Robert Chang argues that post-structuralism is useful in order to understand the interaction between Asian American political action and the law. n50 Postmodernist thought refuses to accept any concept, linguistic usage, or value as pure, original, or incorruptible. Postmodernist narratives, as used by race-crits, contend that concepts like neutrality and objectivity, and institutions like law, have not escaped the taint of racism, but rather are often used to perpetuate it. Postmodernist narratives emphasize the ways in which "race" permeates our language, our perceptions, even our fondest "colorblind" utopias. n51 CRT tells postmodernist narratives when it digs down into seemingly neutral areas of law and finds concepts of "race" and racism always already there. B. CRT and Modernist Narratives Even while it exposes racism within seemingly neutral concepts and institutions, however, CRT has not abandoned the fundamental political goal of traditional civil rights scholarship: the liberation of people of color from racial subordination. Although, like crits, race-crits have questioned concepts of neutrality and objectivity, they have done so from a perspective that places racial oppression at the center of analysis and privileges the racial subject. This commitment to antiracism over critique as an end in itself has created rifts between CRT and CLS. For example, in a symposium published by the Harvard Civil Rights-Civil Liberties Law Review, race-crits broke with crits over the efficacy of "rights talk." n52 CLS writers had argued "that rights were malleable and manipulative, that in practice they served to isolate and marginalize rather than empower and connect people, and that progressive people should emphasize needs, informality, and connectedness rather than rights." n53 Patricia Williams, Richard Delgado, and Mari Matsuda, however, all rejected this yearning to go beyond rights to more [\*751] direct forms of human connection, arguing that, for communities of color, "rights talk" was an indispensable tool. n54 This argument between CRT and CLS was more a matter of strategy and tactics than of fundamental disagreement. Both sides agreed that progressive political action should be antiracist and that human connection was a good thing. But a comparison of CRT work with the second wave of CLS work also indicates a more serious tension. In its commitment to the liberation of people of color, CRT work demonstrates a deep commitment to concepts of reason and truth, transcendental subjects, and "really-out-there" objects. Thus, in its optimistic moments, CRT engages in "modernist" narratives. n55 Modernist narratives assume three things: a subject, free to choose, who can be emancipated or not; an objective world of things out there (a world "the way it really is" as opposed to the way things appear to be in a condition of false consciousness); and "reason," the bridge between the subject and the object that enables subjects to move from their own blindness to "enlightenment." Modernist narratives thus call on a particular intellectual machinery, a methodology Brian Fay describes as "critical social science." Critical social science requires the following: First, that there be a crisis in a social system; second, that this crisis be at least in part caused by the false consciousness of those experiencing it; third, that this false consciousness be amenable to the process of enlightenment ...; and fourth, that such enlightenment lead to emancipation in which a group, empowered by its new-found self-understanding, radically alters its social arrangements and thereby alleviates its suffering. n56 [\*752] In its optimistic moments, CRT is described very well by "critical social science." The crisis in our social system is our collective failure to adequately perceive or to address racism. This crisis, according to CRT, is at least in part caused by a false understanding of "racism" as an intentional, isolated, individual phenomenon, equivalent to prejudice. This false understanding, however, can be corrected by CRT, which redescribes racism as a structural flaw in our society. Through these explanations, readers will come to a new and deeper understanding of reality, an enlightenment which in turn will lead to legal and political struggle that ultimately results in racial liberation. Under CRT, as Fay remarks of critical social science in general, "the truth shall set you free." n57 This project fits well with the kind of scholarship most often found in law reviews. As several scholars have recently argued, one characteristic of conventional legal scholarship is its insistent "normativity": the little voice that constantly asks legal scholars, "So, what should we do?" n58 Normativity is both a stylistic and a substantive characteristic. At the stylistic level, normativity refers to how law review articles typically are structured: the writer identifies a problem within the existing legal framework; she then identifies a "norm," within or outside the legal system, to which we ought to adhere; and finally she applies the norm to resolve the problem in a way that can easily translate into a series of moves within the currently existing legal system. n59 At the substantive level, normativity describes the assumption within legal scholarship of a coherent and unitary "we" - a legal subject who speaks for and acts in the people's best interest - with the power to "do" something. Legal normativity also confidently assumes "our" ability to reason a way through problems with neutrality and objectivity: to "choose" a norm and then "apply" it to a legal problem. n60 Whereas second-wave CLS work sits very uneasily with this scholarly method, n61 both traditional civil rights scholarship and CRT adhere for the [\*753] most part to stylistic and substantive normativity. Although the "we" assumed in these articles and essays is often "people of color" and progressive whites rather than a generic "we," the same confidence is exhibited of "our" ability to choose one norm over another, to apply the new principle to a familiar problem, to achieve enlightenment, and to move from understanding to action. n62 Even when the recommended course of action goes beyond adopting Doctrine X over Doctrine Y, as CRT makes a point of doing, the exhortation to action often still assumes that liberation is just around the corner. CRT's commitment to the liberation of people of color - and the project of critical social science (generally) and normative legal scholarship (in particular) as a way to further that liberation - suggest a faith in certain concepts and institutions that postmodernists lack. When race-crits tell modernist stories, they assume that "people of color" describes a coherent category with at least some shared values and interests. They assume that the idea of "liberation" is meaningful - that racism is something that can one day somehow cease to exist, or cease to exert any power over us. Modernist narratives assume a "real" reality out there, and that reason can bring us face to face with it. And modernist narratives have faith that once enough people see the truth, right action will follow: that enlightenment leads to empowerment, and that empowerment leads to emancipation. Modernist narratives, then, are profoundly hopeful. They assume that people of color and whites live in the same perceptual and moral world, that reason speaks to us all in the same way despite our different experiences, and that reason, rather than habit or power, is what will motivate people. Modernist narratives also can be profoundly romantic. They imagine heroic action by a formerly oppressed people rising up as one, "empowered" to be who they "really" are or choose to be, breathing the thin and bracing air of freedom. This optimism and romanticism, though easy to caricature, cannot be easily dismissed. As Patricia Williams and Mari Matsuda have pointed out, faith in reason and truth and belief in the essential freedom of rational subjects have enabled people of color to survive and resist subordination. n63 Political modernism, more generally, has been a **powerful force** in the lives of subjugated peoples; as a practical matter, politically liberal societies are [\*754] vastly preferable to the alternatives. n64 A faith in reason has sustained efforts to educate people into critical thinking and to engage in debate rather than violence. n65 The passionate and constructive energy of modernist narratives of emancipation is also grounded in a moral faith: that human beings are created equal and endowed with certain inalienable rights; that oppression is wrong and resistance to oppression right; that opposing subjugation in the name of liberty, equality, and true community is the obligation of every rational person. In its modernist moments, CRT aims not to topple the Enlightenment, but to make its promises real. n66

## 2nc at: roleplaying bad

Arguing that a current government policy is bad is not roleplaying

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

While this ballot has meandered off on a tangent I’ll take this opportunity to comment on an unrelated argument in the debate. Emporia argued that oppressed people should not be forced to role play being the oppressor. This idea that debate is about role playing being a part of the government puzzles me greatly. While I have been in debate for 40 years now never once have I role played being part of the government. When I debated and when I have judged debates I have never pretended to be anyone but Scott Harris. Pretending to be Scott Harris is burden enough for me. Scott Harris has formed many opinions about what the government and other institutions should or should not do without ever role playing being part of those institutions. I would form opinions about things the government does if I had never debated. I cannot imagine a world in which people don’t form opinions about the things their government does. I don’t know where this vision of debate comes from. I have no idea at all why it would be oppressive for someone to form an opinion about whether or not they think the government should or should not do something. I do not role play being the owner of the Chiefs when I argue with my friends about who they should take with the first pick in this year’s NFL draft. I do not role play coaching the basketball team or being a player if I argue with friends about coaching decisions or player decisions made during the NCAA tournament. If I argue with someone about whether or not the government should use torture or drone strikes I can do that and form opinions without ever role playing that I am part of the government. Sometimes the things that debaters argue is happening in debates puzzle me because they seem to be based on a vision of debate that is foreign to what I think happens in a debate round.

Analysis of policy is particularly empowering, even if we’re not the USFG

**Shulock 99**

Nancy, PROFESSOR OF PUBLIC POLICY --- professor of Public Policy and Administration and director of the Institute for Higher Education Leadership & Policy (IHELP) at Sacramento State University, The Paradox of Policy Analysis: If It Is Not Used, Why Do We Produce So Much of It?, Journal of Policy Analysis and Management, Vol. 18, No. 2, 226–244 (1999)

In my view, none of these radical changes is necessary. **As interesting as our politics might be with the kinds of changes outlined by proponents of** participatory and **critical policy analysis,** **we do not need these changes to justify our investment in policy analysis.** **Policy analysis already involves discourse, introduces ideas** into politics, **and affects policy outcomes**. The problem is not that policymakers refuse to understand the value of traditional policy analysis or that policy analysts have not learned to be properly interactive with stakeholders and reflective of multiple and nontechnocratic perspectives. The problem, in my view, is only that policy analysts, policymakers, and observers alike do not recognize policy analysis for what it is. **Policy analysis has changed**, right along with the policy process, to become the provider of ideas and frames, to help sustain the discourse that shapes citizen preferences, and to provide the appearance of rationality in an increasingly complex political environment. Regardless of what the textbooks say, there does not need to be a client in order for ideas from policy analysis to resonate through the policy environment.10¶ Certainly there is room to make our politics more inclusive. But **those critics who see policy analysis as a tool of the power elite might be less concerned if they understood that analysts are only adding to the debate**—they are unlikely to be handing ready-made policy solutions to elite decisionmakers for implementation. Analysts themselves might be more contented if they started appreciating the appropriation of their ideas by the whole gamut of policy participants and stopped counting the number of times their clients acted upon their proposed solutions. And **the cynics disdainful of the purported objectivism of analysis might relax if analysts themselves would acknowledge that they are seeking not truth**, **but to elevate the level of debate with a compelling, evidence-based presentation of their perspectives. Whereas critics call**, **unrealistically** in my view, **for analysts to** present competing perspectives on an issue or to “**design a discourse among multiple perspectives,” I see no reason why an individual analyst must do this** when multiple perspectives are already in abundance, brought by multiple analysts. If we would acknowledge that policy analysis does not occur under a private, contractual process whereby hired hands advise only their clients, we would not worry that clients get only one perspective.¶ **Policy analysis is used, far more extensively than is commonly believed**. Its **use could be appreciated and expanded if policymakers, citizens, and analysts themselves began to present it more accuratel**y, not as a comprehensive, problem-solving, scientific enterprise, but **as a contributor to informed discourse**. For years Lindblom [1965, 1968, 1979, 1986, 1990] has argued that we should understand policy analysis for the limited tool that it is—just one of several routes to social problem solving, and an inferior route at that. Although I have learned much from Lindblom on this odyssey from traditional to interpretive policy analysis, my point is different. Lindblom sees analysis as having a very limited impact on policy change due to its ill-conceived reliance on science and its deluded attempts to impose comprehensive rationality on an incremental policy process. I, with the benefit of recent insights of Baumgartner, Jones, and others into the dynamics of policy change, see that **even with** these **limitations, policy analysis can have a major impact on policy. Ideas, aided by institutions and embraced by citizens, can reshape the policy landscape. Policy analysis can supply the ideas.**

## 2nc at case da—short

Topical version of the aff solves: affirm your savagery in response to some usfg action

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**.

## 2nc heg da

Best studies validate our claim – if root causes are important, heg correlates way better than anything else

Owen, associate professor of politics – University of Virginia, 2/11/’11

(John, “Don’t Discount Hegemony,” <http://www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/>)

Andrew Mack and his colleagues at the Human Security Report Project are to be congratulated. Not only do they present a study with a striking conclusion, driven by data, free of theoretical or ideological bias, but they also do something quite unfashionable: they bear good news. Social scientists really are not supposed to do that. Our job is, if not to be Malthusians, then at least to point out disturbing trends, looming catastrophes, and the imbecility and mendacity of policy makers. And then it is to say why, if people listen to us, things will get better. We do this as if our careers depended upon it, and perhaps they do; for if all is going to be well, what need then for us?

Our colleagues at Simon Fraser University are brave indeed. That may sound like a setup, but it is not. I shall challenge neither the data nor the general conclusion that violent conflict around the world has been decreasing in fits and starts since the Second World War. When it comes to violent conflict among and within countries, things have been getting better. (The trends have not been linear—Figure 1.1 actually shows that the frequency of interstate wars peaked in the 1980s—but the 65-year movement is clear.) Instead I shall accept that Mack et al. are correct on the macro-trends, and focus on their explanations they advance for these remarkable trends. With apologies to any readers of this forum who recoil from academic debates, this might get mildly theoretical and even more mildly methodological.

Concerning international wars, one version of the “nuclear-peace” theory is not in fact laid to rest by the data. It is certainly true that nuclear-armed states have been involved in many wars. They have even been attacked (think of Israel), which falsifies the simple claim of “assured destruction”—that any nuclear country A will deter any kind of attack by any country B because B fears a retaliatory nuclear strike from A.

But the most important “nuclear-peace” claim has been about *mutually* assured destruction, which obtains between two robustly nuclear-armed states. The claim is that (1) rational states having second-strike capabilities—enough deliverable nuclear weaponry to survive a nuclear first strike by an enemy—will have an overwhelming incentive not to attack one another; and (2) we can safely assume that nuclear-armed states are rational. It follows that states with a second-strike capability will not fight one another.

Their colossal atomic arsenals neither kept the United States at peace with North Vietnam during the Cold War nor the Soviet Union at peace with Afghanistan. But the argument remains strong that those arsenals did help keep the United States and Soviet Union at peace with each other. Why non-nuclear states are not deterred from fighting nuclear states is an important and open question. But in a time when calls to ban the Bomb are being heard from more and more quarters, we must be clear about precisely what the broad trends toward peace can and cannot tell us. They may tell us nothing about why we have had no World War III, and little about the wisdom of banning the Bomb now.

Regarding the downward trend in *international* war, Professor Mack is friendlier to more palatable theories such as the “democratic peace” (democracies do not fight one another, and the proportion of democracies has increased, hence less war); the interdependence or “commercial peace” (states with extensive economic ties find it irrational to fight one another, and interdependence has increased, hence less war); and the notion that people around the world are more anti-war than their forebears were. Concerning the downward trend in *civil* wars, he favors theories of economic growth (where commerce is enriching enough people, violence is less appealing—a logic similar to that of the “commercial peace” thesis that applies among nations) and the end of the Cold War (which end reduced superpower support for rival rebel factions in so many Third-World countries).

These are all plausible mechanisms for peace. What is more, none of them excludes any other; all could be working toward the same end. That would be somewhat puzzling, however. Is the world just lucky these days? How is it that an array of peace-inducing factors happens to be working coincidentally in our time, when such a magical array was absent in the past? The answer may be that one or more of these mechanisms reinforces some of the others, or perhaps some of them are mutually reinforcing. Some scholars, for example, have been focusing on whether economic growth might support democracy and vice versa, and whether both might support international cooperation, including to end civil wars.

We would still need to explain how this charmed circle of causes got started, however. And here let me raise another factor, perhaps even less appealing than the “nuclear peace” thesis, at least outside of the United States. That factor is what international relations scholars call hegemony—specifically American hegemony.

A theory that many regard as discredited, but that refuses to go away, is called hegemonic stability theory. The theory emerged in the 1970s in the realm of international political economy. It asserts that for the global economy to remain open—for countries to keep barriers to trade and investment low—one powerful country must take the lead. Depending on the theorist we consult, “taking the lead” entails paying for global public goods (keeping the sea lanes open, providing liquidity to the international economy), coercion (threatening to raise trade barriers or withdraw military protection from countries that cheat on the rules), or both. The theory is skeptical that international cooperation in economic matters can emerge or endure absent a hegemon. The distastefulness of such claims is self-evident: they imply that it is good for everyone the world over if one country has more wealth and power than others. More precisely, they imply that it has been good for the world that the United States has been so predominant.

There is no obvious reason why hegemonic stability theory could not apply to other areas of international cooperation, including in security affairs, human rights, international law, peacekeeping (UN or otherwise), and so on. What I want to suggest here—suggest, not test—is that American hegemony might just be a deep cause of the steady decline of political deaths in the world.

How could that be? After all, the report states that United States is the third most war-prone country since 1945. Many of the deaths depicted in Figure 10.4 were in wars that involved the United States (the Vietnam War being the leading one). Notwithstanding politicians’ claims to the contrary, a candid look at U.S. foreign policy reveals that the country is as ruthlessly self-interested as any other great power in history.

The answer is that U.S. hegemony might just be a deeper cause of the proximate causes outlined by Professor Mack. Consider economic growth and openness to foreign trade and investment, which (so say some theories) render violence irrational. American power and policies may be responsible for these in two related ways. First, at least since the 1940s Washington has prodded other countries to embrace the market capitalism that entails economic openness and produces sustainable economic growth. The United States promotes capitalism for selfish reasons, of course: its own domestic system depends upon growth, which in turn depends upon the efficiency gains from economic interaction with foreign countries, and the more the better. During the Cold War most of its allies accepted some degree of market-driven growth.

Second, the U.S.-led western victory in the Cold War damaged the credibility of alternative paths to development—communism and import-substituting industrialization being the two leading ones—and left market capitalism the best model. The end of the Cold War also involved an end to the billions of rubles in Soviet material support for regimes that tried to make these alternative models work. (It also, as Professor Mack notes, eliminated the superpowers’ incentives to feed civil violence in the Third World.) What we call globalization is caused in part by the emergence of the United States as the global hegemon.

The same case can be made, with somewhat more difficulty, concerning the spread of democracy. Washington has supported democracy only under certain conditions—the chief one being the absence of a popular anti-American movement in the target state—but those conditions have become much more widespread following the collapse of communism. Thus in the 1980s the Reagan administration—the most anti-communist government America ever had—began to dump America’s old dictator friends, starting in the Philippines. Today Islamists tend to be anti-American, and so the Obama administration is skittish about democracy in Egypt and other authoritarian Muslim countries. But general U.S. material and moral support for liberal democracy remains strong.

You should choose not to believe their impacts – psychology privileges the argument that the world is getting worse – but it’s conclusively not

Steven **Pinker 11**, professor of psychology at Harvard, The Better Angels of our Nature, October, googlebooks

This book is about what may be the most important thing that has ever happened in human history. Believe it or not—and I know that most people do not—violence has declined over long stretches of time, and today we may be living in the most peaceable era in our species’ existence. The decline, to be sure, has not been smooth; it has not brought violence down to zero; and it is not guaranteed to continue. But it is an unmistakable development, visible on scales from millennia to years, from the waging of wars to the spanking of children. No aspect of life is untouched by the retreat from violence. Daily existence is very different if you always have to worry about being abducted, raped, or killed, and it’s hard to develop sophisticated arts, learning, or commerce if the institutions that support them are looted and burned as quickly as they are built. The historical trajectory of violence affects not only how life is lived but how it is understood. What could be more fundamental to our sense of meaning and purpose than a conception of whether the strivings of the human race over long stretches of time have left us better or worse off? How, in particular, are we to make sense of modernity—of the erosion of family, tribe, tradition, and religion by the forces of individualism, cosmopolitanism, reason, and science? So much depends on how we understand the legacy of this transition: whether we see our world as a nightmare of crime, terrorism, genocide, and war, or as a period that, by the standards of history, is blessed by unprecedented levels of peaceful coexistence. The question of whether the arithmetic sign of trends in violence is positive or negative also bears on our conception of human nature. Though theories of human nature rooted in biology are often associated with fatalism about violence, and the theory that the mind is a blank slate is associated with progress, in my view it is the other way around. How are we to understand the natural state of life when our species first emerged and the processes of history began? The belief that violence has increased suggests that the world we made has contaminated us, perhaps irretrievably. The belief that it has decreased suggests that we started off nasty and that the artifices of civilization have moved us in a noble direction, one in which we can hope to continue. This is a big book, but it has to be. First I have to convince you that violence really has gone down over the course of history, knowing that the very idea invites skepticism, incredulity, and sometimes anger. Our cognitive faculties predispose us to believe that we live in violent times, especially when they are stoked by media that follow the watchword “If it bleeds, it leads.” The human mind tends to estimate the probability of an event from the ease with which it can recall examples, and scenes of carnage are more likely to be beamed into our homes and burned into our memories than footage of people dying of old age.1 No matter how small the percentage of violent deaths may be, in absolute numbers there will always be enough of them to fill the evening news, so people’s impressions of violence will be disconnected from the actual proportions. Also distorting our sense of danger is our moral psychology. No one has ever recruited activists to a cause by announcing that things are getting better, and bearers of good news are often advised to keep their mouths shut lest they lull people into complacency. Also, a large swath of our intellectual culture is loath to admit that there could be anything good about civilization, modernity, and Western society.

But perhaps the main cause of the illusion of ever-present violence springs from one of the forces that drove violence down in the first place. The decline of violent behavior has been paralleled by a decline in attitudes that tolerate or glorify violence, and often the attitudes are in the lead. By the standards of the mass atrocities of human history, the lethal injection of a murderer in Texas, or an occasional hate crime in which a member of an ethnic minority is intimidated by hooligans, is pretty mild stuff. But from a contemporary vantage point, we see them as signs of how low our behavior can sink, not of how high our standards have risen. In the teeth of these preconceptions, I will have to persuade you with numbers, which I will glean from datasets and depict in graphs. In each case I’ll explain where the numbers came from and do my best to interpret the ways they fall into place. The problem I have set out to understand is the reduction in violence at many scales—in the family, in the neighborhood, between tribes and other armed factions, and among major nations and states. If the history of violence at each level of granularity had an idiosyncratic trajectory, each would belong in a separate book. But to my repeated astonishment, the global trends in almost all of them, viewed from the vantage point of the present, point downward. That calls for documenting the various trends between a single pair of covers, and seeking commonalities in when, how, and why they have occurred. Too many kinds of violence, I hope to convince you, have moved in the same direction for it all to be a coincidence, and that calls for an explanation. It is natural to recount the history of violence as a moral saga—a heroic struggle of justice against evil—but that is not my starting point. My approach is scientific in the broad sense of seeking explanations for why things happen. We may discover that a particular advance in peacefulness was brought about by moral entrepreneurs and their movements. But we may also discover that the explanation is more prosaic, like a change in technology, governance, commerce, or knowledge. Nor can we understand the decline of violence as an unstoppable force for progress that is carrying us toward an omega point of perfect peace. It is a collection of statistical trends in the behavior of groups of humans in various epochs, and as such it calls for an explanation in terms of psychology and history: how human minds deal with changing circumstances.

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**The aff jeopardizes warfighting and undermines determination**

**Eyago 05** Political Commentary – Sound Politics Reporter [7/8, http://www.soundpolitics.com/archives/004721.html, Sound Commentary on Current Events in Seattle, Puget Sound and Washington State]

Finally, I am angry at those who undermine our efforts to conduct this war. I am angry at people, who through their words, and efforts contribute to the injury and death of our soldiers, who provide encouragement to the enemy, who weaken our efforts and prolong the war, who, for political gain put our soldiers, our people, and our nation at greater risk. There is a LOT of anger going on. Many times it is inappropriately acted upon. Islamists are angry, so they blow up people. Conservatives are angry so they advocate indiscriminate retaliation. Liberals are angry so they advocate undermining the war. All this anger is misdirected. We can see how the killing of innocents is wrong, but sometimes we cannot see how allowing innocents to be killed is wrong. One should seriously consider the impacts of certain types of dissention in this country before embarking on said dissentious course. I have many issues with the war in Iraq, but I will focus on just a couple. When President Bush pronounced to the world that he would defeat terrorism, he made a promise. He promised that he would not only pursue the terrorists wherever they may be, but he promised to go after the countries that enable those terrorists. When the UN made resolution after resolution against Iraq those too were promises. The difference comes in whether one follows up a promise or not. You see, no one embarks on a major undertaking with the expectation of losing. The choices any person or group are almost always predicated on the fact that the reward exceeds the price or risk. Hitler would not have invaded Czechoslovakia unless he thought he could get away with it. He would not have invaded Poland unless he though he could get away with it. The success of those events and reaction of Europe convinced him that he could press on and take all of Europe. Saddam would not have invaded Kuwait unless he thought he could get away with it. He would not have defied the UN unless he though he could get away with it. In those cases, the acting party decided that they could attain their goals using the methods employed. The same thing goes for the terrorists. They methods they employ are based on the expectation of ultimate success. The methods they employ are also based on their own capabilities, capabilities that stem from the support of governments both passive and active, the support of moneyed benefactors, and the support of powerful influencers such as media and high profile personalities. This brings me back to promises made. Part of the reason these terrorists became so bold is that there were few significant reprisals for their actions. In the same way Hitler moved on Poland and Hussein defied the UN, Al Qaeda flew planes into our buildings. Ultimately it was because they could and that the reprisals had insufficient deterrent effect. Now, when President Bush announced that he would pursue the nations that supported terrorism, he basically set the stage for action. The choice was, rattle the saber and hope it is enough, or draw the saber and demonstrate our commitment to living up to our promises. It is fair to debate whether Iraq was the best choice for an operation, but the stage had also been set there as well. With promises being made at the UN, the choice was to continue to prove that promises meant nothing or to prove that they did. I believe that the lack of consequences in the past was a key factor in the terrorist activity leading up to and including 9/11. Without the resolve to back up our promises, our enemies will be emboldened to act. It does not get any simpler than that. Iraq was a promise kept. Now, some people want us to renege on that promise and others. That is a dangerous position to be advocating. The thing is, the debate about Iraq belongs BEFORE we took action. And that debate DID occur. It occurred BEFORE the war. And the result was overwhelmingly in FAVOR of action. The congress granted President Bush the authority to act. The fact that they did not like his decision is moot. If they did not trust his ability to act, they were wrong to have given him the authority to do so. NOW they are wrong for challenging his decision after the fact. That brings us back to the concept of one's expectation of the results of one's actions. In many cases throughout history, the winner of a conflict was not always the one with the bigger army, the better equipment, and the best trained, or any of those factors. **The winner quite often was the one with the greater will to win.** Wars are won by will in far greater weight then in anything else. I would say that will is THE determining factor in success in any conflict. Obviously will is not enough. A greater force can sap the will of another army, but not always. The revolutionary war was won by will, not by military might. Vietnam was lost by will not by military might. And, Iraq will be won or lost by will alone. The consequences of this outcome will have long lasting impacts on the security of our nation. At this point, it does not matter whether we should have gone into Iraq. The fact is we are there now. We either complete the job and fulfill our promises to rebuild that nation and leave it with a stable and free society or we cut and run and have the world know with certainty that our word is null and void and that we have no resolve. That is the stakes. That is the goal of the terrorists: to prove they have resolve, to prove that we do not. Their victory will ensure increased attacks on all nations because the terrorists will have unimpeachable proof that their tactics will ultimately succeed. Bombings, beheadings, gross atrocities will be the weapons of choice in the future. Tactics that have been proven to bring down the mighty. If will is the factor that determines the outcome, then will is the place where we must consider here and now. As far as our enemy is concerned, we MUST make them believe that they cannot succeed. We MUST make them sure that WE will prevail. We MUST prove to them that their tactics are ineffectual. There is a down side to that. Once an enemy realizes their tactics are not succeeding, they will change them. With an enemy of this nature, that could result in greater atrocities than we have yet seen. Yet, even then we must prevail. We must continue to demonstrate OUR resolve and OUR willingness to see this to the end and DEFEAT them. Since they have shown little regard for decency and life, since they have shown that our very existence is provocation to them, no amount of diplomacy or concessions will achieve an end satisfactory to our nation. The only solution is the demonstration of our willingness to defeat them despite their tactics. Our goal is to defeat the will of the enemy. His goal is to defeat ours. Any indication that the enemy's will is faltering will bolster our own will. However, the opposite is true as well. Any indication that our will is faltering will embolden the enemy's will. Unfortunately, from the very first minute of this conflict, parts of our country have shouted from the very mountain tops just how little will they have to win the war. They demonstrate clearly for our enemies that we don't want to fight. They give clear indication that enemy tactics are successful. In effect, they give aid and comfort to the enemy and spur them on to continued fighting because they tell the enemy in clear messages that if they continue in their tactics, the United States will be defeated. As I said before, the debate about whether we go to war is over. We are now at war, and the ONLY debate we should have is on what tactics are most appropriate for prosecuting that war. **It is marginally fair to state that you are unhappy about our decision to go to war, but beyond that, anything else will embolden the enemy.** Think very long and about what is at stake here. It is almost IMPOSSIBLE to be pro America while actively dissenting on ongoing conflict. It is bordering on treason for a public official to undermine the war effort, the Commander in Chief and the military publicly for all the world to see. We have started down this path, and there are but two choices: to win or to lose. There is no "suing for peace" with this enemy. Now, that does not mean you have to become militaristic and be a war monger. You can be a peacenik, but you need to consider that unless you want to see the United States harmed, you should cease criticism of the war itself until after it is won. There is plenty of time to castigate the people who made what you perceive as errors AFTER we have finished the job. However, if you persist in presenting disunity and a weakened resolve to the enemy, you take direct responsibility for the lives of all Americans, Iraqis and foreign terrorists that will die subsequently. The quickest way to end the war is to be united, to demonstrate unshakable resolve, and to have the enemy surrender. Or, YOU can surrender to the enemy. Anything else will just prolong the killing. This goes infinitely more so for our public leaders. What they do for political gain is completely unconscionable.

**Terrorists aren’t heroes. They are murderers, they aren’t having discursive discussions about their reps – neither should we**

**Peters 04** Former Lieutenant Colonel in the US Army, Author [Ralph “In Praise of Attrition” Parameters, Spring, p 24-32 (http://www.carlisle.army.mil/USAWC/parameters/04summer/peters.htm)]

Trust me. **We don’t need discourses.** We need plain talk, honest answers, and the will to close with the enemy and kill ~~him~~. And to keep on killing ~~him~~ until it is unmistakably clear to the entire world who won. When military officers start speaking in academic gobbledygook, it means they have nothing to contribute to the effectiveness of our forces. They badly need an assignment to Fallujah. Consider our enemies in the War on Terror. ~~Men~~ who believe, literally, that they are on a mission from God to destroy your civilization and who regard death as a promotion are not impressed by elegant maneuvers. You must find them, no matter how long it takes, then kill them. If they surrender, you must accord them their rights under the laws of war and international conventions. But, as we have learned so painfully from all the mindless, left-wing nonsense spouted about the prisoners at Guantanamo, you are much better off killing them before they have a chance to surrender. We have heard no end of blather about network-centric warfare, to the great profit of defense contractors. If you want to see a superb—and cheap—example of “net-war,” look at al Qaeda. The mere possession of technology does not ensure that it will be used effectively. And effectiveness is what matters. It isn’t a question of whether or not we want to fight a war of attrition against religion-fueled terrorists. We’re in a war of attrition with them. We have no realistic choice. Indeed, our enemies are, in some respects, better suited to both global and local wars of maneuver than we are. They have a world in which to hide, and the world is full of targets for them. They do not heed laws or boundaries. They make and observe no treaties. They do not expect the approval of the United Nations Security Council. They do not face election cycles. And their weapons are largely provided by our own societies. We have the technical capabilities to deploy globally, but, for now, we are forced to watch as Pakistani forces fumble efforts to surround and destroy concentrations of terrorists; we cannot enter any country (except, temporarily, Iraq) without the permission of its government. We have many tools—military, diplomatic, economic, cultural, law enforcement, and so on—but we have less freedom of maneuver than our enemies. But we do have superior killing power, once our enemies have been located. Ultimately, **the key advantage of a superpower is super power**. Faced with implacable enemies who would kill every man, woman, and child in our country and call the killing good (the ultimate war of attrition), we must be willing to use that power wisely, but remorselessly. We are, militarily and nationally, in a transition phase. Even after 9/11, we do not fully appreciate the cruelty and determination of our enemies. We will learn our lesson, painfully, because the terrorists will not quit. The only solution is to kill them and keep on killing them: a war of attrition. But a war of attrition fought on our terms, not theirs. Of course, we shall hear no end of fatuous arguments to the effect that we can’t kill our way out of the problem. Well, until a better methodology is discovered, killing every terrorist we can find is a good interim solution. The truth is that even if you can’t kill yourself out of the problem, you can make the problem a great deal smaller by effective targeting. And we shall hear that killing terrorists only creates more terrorists. This is sophomoric nonsense. The surest way to swell the ranks of terror is to follow the approach we did in the decade before 9/11 and do nothing of substance. Success breeds success. Everybody loves a winner. The clichés exist because they’re true. Al Qaeda and related terrorist groups metastasized because they were viewed in the Muslim world as standing up to the West successfully and handing the Great Satan America embarrassing defeats with impunity. Some fanatics will flock to the standard of terror, no matter what we do. But it’s far easier for Islamic societies to purge themselves of terrorists if the terrorists are on the losing end of the global struggle than if they’re allowed to become triumphant heroes to every jobless, unstable teenager in the Middle East and beyond. Far worse than fighting such a war of attrition aggressively is to pretend you’re not in one while your enemy keeps on killing you.

**Since sovereign violence can’t be eradicated, using American primacy as a means to reduce violence is the most moral option and the only effective one**  
**Elshtain 7** (Jean Bethke, Prof. Social and Politics Ethics – U. Chicago, and Chair in Foundations of American Freedom – Georgetown U., Studies in Christian Ethics, “Against the New Utopianism”, 20:1, Ebsco)

Neo-Kantianism, of whatever stripe, is rather a far cry from arguments some of us have mounted that aspires to a world of 'minimally decent states' and a commitment to the principle of 'equal moral regard' for human beings. This 'equal moral regard' sounds rather Kantian, to be sure, but it is not an absolute principle in practice — it is an aspiration. One appreciates the tragedy that on this earth even good and decent principles cannot be wholly realised. Surprisingly, even this rather more modest call for minimally decent states — and the assumption that such states will in one way or another likely be demcratic — is taxed with a disguised form of moral imperialism, with ethnocentrism, and the encouragement of the use of force. I suspect this has happened because 'the new internationalists', myself included, point out that American constitutional principles constitute universal claims, not particular ones, and that these universal claims, e.g. 'all persons are created equal', really means all persons. As everyone knows, much of the domestic history of American political life involves contestation to achieve in practice the universalism embedded in the American experiment in principle. Further, I and others argue that there is no way around American power. The question is whether, on balance, it is used for good or ill. For the new Utopians, American power is often the problem and in the wilder forms of European anti-Americanism, America functions as the repository of all that is disgusting, crass, wicked, manipulative, etc. in the world. The mere existence of American power somehow stifles and strangles the rest of the world — on and on in this vein. For example, Anthony Burke claims that the new internationalism traffics in 'fear-soaked rhetoric', and labels the war against Saddam's republic of fear an 'unimaginable break' with international norms; Abu Ghraib is construed as the norm rather than an aberration (which makes criminal prosecution of the perpetrators rather inexplicable — if indeed their disgusting display was the norm we would give them medals, not indict them); the idea of state sovereignty is blasted as 'violent and exclusivist ... lingering like a latent illness in the very depths of modern cosmopolitanism'.\* The metaphor of disease is fascinating here. But who are the physicians to heal the international order? For Kant they are the moral philosophers. For Burke and so many others, it is a fantasy United Nations — quite unlike the one we actually have — and international law, universally accepted and endorsed and enforced -although their arguments are often rather thin concerning how just these laws are to be enforced and by whom. Given that the United Nations today is composed of delegates who lopsidedly represent undemocratic and corrupt regimes, this strikes me as a not terribly helpful argument. Moreover, why should an International Court of Justice dominated by Europeans be any more 'universal' than claims launched by a democratic state premised on universal propositions? In sum, the Kantian vision relies on a dualistic contrast between 'perpetual peace' and 'perpetual war' that is a chimera. The new Utopians ignore or downplay moral and political ambiguity and nuance, the smudginess of real human lives and history. Those of us who believe the universe is not heal-able' (if there is such a word) are often taxed with being imperialists if we express the hope that American power can help to stabilise and provide order in international affairs and, at the same time, defeatists precisely because we — or at least I — share St Augustine's conviction that on this earth it will remain impossible to perfectly reconcile human wills. Pace the critics, this is not a counsel of defeatism at all; rather, it represents hope by contrast to optimism. Hope that the world can be made less brutal and less unjust, and this means more respect for human rights and more democratic forms insofar as democracy involves respect for persons qua persons. Saying this does not dictate any particular form of government save that no one is born to be a slave, to be tormented, or to be slaughtered because of who he or she is — whether American or Israeli or Palestinian, whether Jew or Christian or Muslim, whether male or female. The new neo-Kantian universalism — or new utopianism — is a mixture of un-tethered idealism, hoping for the triumph of good will and a world in which international bodies supplant states, international law supersedes multiple civic laws, and there is at some point a definitive abandonment of the use of force in international affairs. For us 'new internationalists' — if we accept the designation and I am not wild about it — we find the real challenge to our position not so much from the new Utopians — I believe their arguments can be rather readily answered — but from serious classical realists who set the bar lower, insisting that the best we can do is to forestall the worst and not hope for some good. There is great wisdom in this posture — forestalling the worst is no small achievement — but, contrary to some interpreters of Augustine, I believe there is also warrant for a measure of hopefulness within his arguments concerning political life and order.

## Case

Categorically embracing the terrorist is an epistemologically flawed method – they preclude the possibility of some terrorists being objectively evil

**Dershowitz, 2003** (Alan, Professor of Criminal Law at Rights at Harvard Law School, Why Terrorism Works: Understanding the Treat, Responding to the Challenge, p. 24-25)

The current mantra of those opposed to a military response to terrorism is a plea to try to understand and eliminate the root causes of terrorism. There are several reasons why this is exactly the wrong approach. The reason terrorism works—and will persist unless there are significant changes in the responses to it—is precisely because its perpetrators believe that by murdering innocent civilians they will succeed in attracting the attention of the world to their perceived grievances and their demand that the world “understand them” and “eliminate their root causes.” To submit to this demand is to send the following counterproductive message to those with perceived grievances: if you resort to terrorism, we will try harder to understand your grievances and respond to them than we would have if you employed less violent methods. This is precisely the criterion for success established by the terrorist themselves. Listen to the words of Zehdi Labib Terzi, the Palestine Liberation Organization’s chief observer at the United Nations: “The first several hijackings aroused the consciousness of the world and awakened the media and the world opinion much more—and more effectively—than twenty years of pleading at the United Nations.” If this is true—and the Palestinians surely believe it is—then it should come as no surprise that hijackings and other forms of terrorism increased dramatically after the Palestinians were rewarded for their initial terrorism by increased world attention to its “root causes”—attention that quickly resulted in their leader being welcomed by the U.N. General Assembly, their organization being granted observer status at the United Nations, and their “government” being recognized by dozens of nations. We must take precisely the opposite approach to terrorism. We must commit ourselves to never try to understand or eliminate its alleged root causes, but rather to place it beyond the pale of dialogue and negotiation. Our message must be this: even if you have legitimate grievances, if you resort to terrorism as a means toward eliminating them we will simply not listen to you, we will not try to understand you, and we will certainly never change any of our policies toward you. Instead, we will hunt you down and destroy your capacity to engage in terror. Any other approach will encourage the use of terrorism as a means towards achieving ends—whether those ends are legitimate, illegitimate, or anything in between.

The data is clear – all measures of life are improving – even in the world’s poorest countries

Gates, chairman of the Bill & Melinda Gates Foundation, 2011

(Bill, Foreword to *Getting Better* by Charles Kenny, searchable Kindle Edition)

Getting Better dispels the gloom and doom with a wealth of convincing data on the remarkable, underappreciated progress that almost all developing countries have achieved over the past several decades—many with the help of considerable aid support. At less than 2 percent of public spending in most donor countries, aid’s true impact has been obscured by a paradox. The billions of dollars that the West has poured into poor countries have had a limited impact on income, which is what most economists use to measure progress in living standards. Many countries in Africa today have real per-capita incomes lower than that of Britain at the time of the Roman Empire. Over the past several decades, through good times and bad, the income gap between rich and poor countries has grown. And no one really knows why. **But income is only one measure of success**, and maybe not the most meaningful one. We care about it mostly as a proxy for what money can buy: **food**, **shelter**, **health**, **education**, **security**, and other factors that contribute to human well-being. More so than income, these are the things that development aid directly addresses. **And by these measures**—this is Mr. Kenny’s great insight—**quality of life**, **even in the world’s poorest countries**, **has improved dramatically over the past several decades**, far more than most people realize. Fifty years ago, more than half the world’s population struggled with getting enough daily calories. By the 1990s, this figure was below 10 percent. Famine affected less than three-tenths of 1 percent of the population in sub-Saharan Africa from 1990 to 2005. As Mr. Kenny suggests, **the record has thoroughly disproved Malthusian prophecies of food shortages caused by spiraling population growth**. Family sizes have fallen for many decades now in every region, including Africa. And there’s more good news. Virtually everywhere, **infant mortality is down and life expectancy is up**. In Africa, life expectancy has increased by ten years since 1960, despite the continent’s HIV pandemic. Nearly 90 percent of the world’s children are now enrolled in primary schools, compared with less than half in 1950. Literacy rates in the sub-Saharan region have more than doubled since 1970. Political and civil rights also have gained ground.

Their predictions ignore progress – projecting the present onto the future is a failed strategy

Ridley, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer, 2010

(Matt, *The Rational Optimist*, pg. 354)

**It is a common trick to forecast the future on the assumption of no technological change**, **and find it dire**. This is not wrong. The future would indeed be dire if invention and discovery ceased

. As Paul Romer puts it: ‘Every generation has perceived the limits to growth that finite resources and undesirable side effects would pose if no new recipes or ideas were discovered. **And every generation has underestimated the potential for finding new recipes and ideas**. We consistently fail to grasp how many ideas remain to be discovered.’ By far the most dangerous, and indeed unsustainable thing the human race could do to itself would be to turn off the innovation tap. Not inventing, and not adopting new ideas, can itself be both dangerous and immoral.