**1**

**a. Interpretation and violation---the affirmative should defend the desirability of topical government action**

**b. Our interpretation is most predictable—the agent and verb indicate a debate about hypothetical government action**

Jon M **Ericson 3**, Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4

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

**They aren’t statutory or judicial restrictions either—which are mandatory procedural checks backed up by the force of law**

**Mortenson 11** (Julian Davis Assistant Professor, University of Michigan Law School, “Review: Executive Power and the Discipline of History Crisis and Command: The History of Executive Power from George Washington to George W. Bush John Yoo. Kaplan, 2009. Pp vii, 524,” Winter 2011, University of Chicago Law Review 78 U. Chi. L. Rev. 377)

At least two of Yoo's main examples of presidential power are actually instances of **presidential deference to statutory restrictions during times of great national peril.** **The earliest is Washington's military suppression of the Whiskey Rebellion** (III, pp 66-72), a domestic disturbance that Americans viewed as implicating adventurism by European powers and threatening to dismember the new nation. n60 **The Calling Forth Act of 1792** n61 **allowed the President to mobilize state militias under federal control, but included a series of mandatory procedural checks--including judicial** [\*399] **approval--that restricted his ability to do so**. n62 Far from defying these comprehensive restrictions at a moment of grave crisis, Washington satisfied their every requirement in scrupulous detail. **He issued a proclamation ordering the Whiskey Rebels to disperse**. n63 When they refused to do so, **he submitted a statement to Justice James Wilson of the Supreme Court describing the situation in Pennsylvania and requesting statutory certification**. n64 **Only when Wilson issued a letter precisely reciting the requisite statutory language (after first requiring the President to come back with authentication of underlying reports and verification of their handwriting n65) did Washington muster the troops. n66 Washington's compliance with statutory restrictions on his use of force continued even after his forces were in the field. Because Congress was not in session** when he issued the call-up order, Washington **was authorized by statute to mobilize militias from other states besides Pennsylvania**--but only "until the expiration of thirty days after the commencement of the ensuing [congressional] session." n67 When it became clear that the Pennsylvania campaign would take longer than that, **Washington went back to Congress to petition for extension of the statutory time limit that would otherwise have required him to** [\*400] disband his troops. n68 Far from serving as an archetypal example of presidential defiance, the Whiskey Rebellion demonstrates exactly the opposite. **FDR's efforts to supply the United Kingdom's war effort before Pearl Harbor teach a similar lesson**. During the run-up to America's entry into the war, **Congress passed a series of Neutrality Acts that supplemented longstanding statutory restrictions on providing assistance to foreign belligerents**. Despite these restrictions, FDR sent a range of military assistance to the future Allies. n69 Yoo makes two important claims about the administration's actions during this period. First, he claims the administration asserted that "[a]ny **statutory effort by Congress to prevent the President from transferring military equipment to help American national security would be of 'questionable constitutionality'**" (III, p 300). Second, he suggests that American military assistance in fact violated the neutrality statutes (III, pp 295-301, 310, 327-28).

**They also don’t place that restriction on the Presidents war powers authority which is a restriction on war powers authority limits Presidential discretion**

Jules **Lobel 8**, Professor of Law at the University of Pittsburgh  Law School, President of the Center for Constitutional Rights, represented members of Congress challenging assertions of Executive power to unilaterally initiate warfare, “Conflicts Between the Commander in Chief and Congress: Concurrent Power  over the Conduct of War,” Ohio State Law Journal, Vol 69, p 391, 2008, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf

So too, **the congressional power to declare or authorize war has been long held to permit Congress to authorize and wage a limited war**—“limited in place, in objects, and in time.” 63 **When Congress places such restrictions on the President’s authority to wage war, it limits the President’s discretion to conduct battlefield operations**. For example, **Congress authorized** President George H. W. **Bush to attack Iraq** in response to Iraq’s 1990 invasion of Kuwait, **but** it **confined the President’s authority to the use of U.S. armed forces pursuant to U.N. Security Council resolutions** directed to force Iraqi troops to leave Kuwait. **That restriction would not have permitted the President to march into Baghdad** after the Iraqi army had been decisively ejected from Kuwait, a limitation recognized by President Bush himself.64

**c. Several net benefits**

**First is decision making, debate over a controversial point of action creates argumentative stasis—the resolution is key to decision making**

**Steinberg and Freely 08**

(David L., lecturer of communication studies – University of Miami, and Austin J.,Boston based attorney who focuses on criminal, personal injury and civil rights law, “Argumentation and Debate: Critical Thinking for Reasoned Decision Making” p. 45//wyoccd)

**Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a tact or value or policy, there is no need for debate: the matter can be settled by unanimous consent**. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four," because there is simply no controversy about this statement. (Controversy is an essential prerequisite of debate. **Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate**. In addition, **debate cannot produce effective decisions without clear identification of a question or questions to be answered.** For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. **Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly.** **Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress**, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007.¶ Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." **Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as "What can be done to improve public education?"—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step**. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference.¶ **To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument**. For example, the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose**.¶ Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument**. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does "effectiveness" mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" The basis for argument could be phrased in a debate proposition such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." **Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution.** This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. **The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.**

**Debate needs middle of the road constraints; unbridled affirmation destroys dialogue that are key to political discussion**

**Hanghoj 08**

(Thorkild Hanghøj, Phd, DREAM (Danish Research Centre on Education and Advanced Media Materials at the Institute of Literature, Media and Cultural Studies at the University of Southern Denmark. 2008 http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf//wyoccd)

**Debate games are often based on pre-designed scenarios that include** descriptions of issues to be debated, **educational goals, game goals, roles, rules, time frames etc.** In this way**, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space.** However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, **educational gaming is a form of teaching**. **As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation** (Gee, 2003; Barth, 2002; cf. chapter 2). **In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to** a central assumption in **Bakhtin’s dialogical philosophy**. According to Bakhtin, **all forms of communication and culture are subject to centripetal and centrifugal forces** (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “**Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear**” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “**Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction**” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. **Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities.** In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously**, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game** (centripetal orientation) **and a focusing too broadly on the contingent possibilities** and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the **monological discourse** of the Socrates/Plato dialogues **in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary** (Bakhtin, 1984a). Thus, discourse becomes monologised **when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher** (Bakhtin, 1984a: 81). In contrast to this, **dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths”** (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

**d. Vote neg**

**Preparation and clash—changing the topic post facto manipulates balance of prep, which structurally favors the aff because they speak last and permute alternatives—strategic fairness is key to engaging a well-prepared opponent**

**Topical fairness requirements are key to effective dialogue—monopolizing strategy and prep makes the discussion one-sided and subverts any meaningful neg role**

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

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

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

## 2

#### The silence of the aff on how colonialism was produced through the genocide of Native Americans dooms their politics to failure- the call to come before decolonization bases the aff’s moral system on the continued benefit of genocidal occupation

Morgensen 2010

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

Denaturalizing settler colonialism will mark it as not a fait accompli but a process open to change. While settlement suggests the appropriation of land, that history was never fixed: even the violence of allotment failed to erase collective Native land claims, just as land expropriation is being countered by tribal governments reacquiring sovereign land. In turn, as Thomas King and Paul Carter suggest, settlement narrates the land, and, as storytelling, it remains open to debate, End Page 122 such as in Native activisms that sustain Indigenous narratives of land or tell new stories to denaturalize settler landscapes. The processes of settler colonialism produce contradictions, as settlers try to contain or erase Native difference in order that they may inhabit Native land as if it were their own. Doing so produces the contortions described by Deloria, as settler subjects argue that Native people or their land claims never existed, no longer exist, or if they do are trumped by the priority of settler claims. Yet at the same time settler subjects study Native history so that they may absorb it as their own and legitimate their place on stolen land. These contradictions are informed by the knowledge, constantly displaced, of the genocidal histories of occupation. Working to stabilize settler subjectivity produces the bizarre result of people admitting to histories of terrorizing violence while basing their moral systems on continuing to benefit from them. The difference between conservative and liberal positions on settlement often breaks between whether non-Natives feel morally justified or conscionably implicated in a society based on violence. But while the first position embraces the status quo, the second does nothing necessarily to change it. As Smith pointedly argues, "It is a consistent practice among progressives to bemoan the genocide of Native peoples, but in the interest of political expediency, implicitly sanction it by refusing to question the illegitimacy of the settler nation responsible for this genocide."

#### The 1AC’s archeology of special politics relies on a historical erasure- It obscures that the most egregious violence in America was perpetuated against indigenous peoples, spacial politics didn’t “begin” with the prison system, it “began” with the drawing of state borders and reservations

Churchill ‘92

[Ward, You know.. that one guy who is a codirector of the Colorado chapter of the American Indian Movement and a previous professor at the University of Colorado/Boulder. Even if this dude is white he is awesome, Sherman Alexie told me so, 1992, “Fantasies of the Master Race.” pg. 7 – 9//wyo-hdm]

Perhaps the first American work which might appropriately be termed¶ a novel concerning American Indians was Charles Brockden Brown's 1799¶ release, Edgar Huntley. It was followed, in reasonably short order for the time,¶ by two chapters —-"Traits of the Indian Character" and "Philip of¶ Pokanoket"—devoted to the extermination of the Narragansets during¶ what the colonists called "King Philip's War" in Washington Irving's Sketch¶ Book, dating from 1819. The latter absorbs the "noble savage" stereotype¶ associated with Thomas Morton's earlier work:¶ Even in his last refuge of desperation and dispair a sullen grandure gathers round his¶ (Philip's) memory. We picture him to ourselves seated among his careworn followers,¶ brooding in silence over his blasted fortunes and acquiring a savage sublimity from the¶ wilderness of his lurking place. Defeated but not dismayed, crushed to earth but not¶ humiliated, he seemed to grow more haughty beneath disaster and experience a fierce¶ satisfaction in draining the last dregs of bitterness.9¶ By 1823, James Fenimore Cooper was on the scene and between then and¶ 1841 his cumulative novels—including The Pioneers, The Last of the Mohicans,¶ The Deerslayer, The Prairie and The Pathfinder—had firmly established all four of¶ the stereotypes denoted above within the popular consciousness. Of course,¶ Cooper had considerable help. During the same period, Chateaubriand's Atala¶ appeared, as well as novels by William Gilmore Simms including The Yemasee¶ and Guy Rovers. Then, there were poems such as John Greenleaf Whittier's 1835¶ epic, Mogg Megone and, by 1855, Henry W Longfellow's The Song of Hiawatha,¶ To the Driving Cloud and The Burial ofMinnisink. In a less pretentious vein, there¶ was also during this general period the so-called "juvenile fiction" exemplified¶ by Mayne Reid in The Scalp Hunters and Desert Home. The list is considerable.¶ The elements of this rapidly proliferating mass of creative output shared several features in common. For instance, none possessed the slightest concrete¶ relationship to the actualities of native culture(s) they portrayed. Hence,¶ each amounted to the imaginative invention of the authors, who by virtue¶ of their medium were alien to the context of which they presumed to write.¶ It can be argued, and has,10 that such prerogatives rest squarely within the¶ realm of the fiction writer. While this may be true in an aesthetic sense, the¶ practical application of the principle breaks down for each of these works on¶ at least two levels:¶ • The justifying aesthetic rationale is itself an aspect of the European cultural¶ context which generated the literate format at issue. Hence, utilizing¶ aesthetic "freedom" as a justifying basis for the distortive literary¶ manipulation of non-European cultural realities is merely a logically¶ circular continuum. It may perhaps be reasonable that Europe is entitled¶ in the name of literature to fabricate whole aspects of its own¶ sociocultural existence. However, the unilaterally extended proposition¶ that such entitlement reaches into crosscultural areas seems arrogant in¶ the extreme, little more than a literary "Manifest Destiny."¶ • Regardless of the contradictions implied through application of¶ purely European aesthetic values within a crosscultural context, it¶ must be held in mind that none of the authors in question operated¶ in this abstract sense (such turf being generally reserved for their¶ defenders). In each case, a more or less fictionally intended novel or¶ poetic development was derived from the equally European (Anglo)¶ but ostensibly nonfictive works referenced in the previous section.¶ Consequently, each later literary figure could lay claim to the¶ "authenticity" of a firm grounding in the "historical record." That¶ such history utterly ignored the indigenous oral accountings of the¶ people/events thus portrayed, and did so in favor of the thoroughly¶ alien literary record, serves to illustrate the self-contained dynamic¶ through which literature dismisses anything beyond its pale (including¶ what is being written about). Again, the logic describes a perfect¶ circle: product and proof are one and the same.¶ The advent of the treatment of American Indians within a formalized¶ American literature does not imply a cessation or even necessarily a dimin¶ ishing of the "nonfictional" writing from which the fictional material grew.¶ Perhaps its most telling example rests within the introduction of "Indian¶ Religions" to the readership(s) of popular magazines during the 19th century.¶ For example, in an 1884 essay published in Atlantic Monthly, writer¶ Charles Leland asserted that".. .there is no proof of the existence among our¶ [sic] Indians of a belief in a Great Spirit or in an infinite God before the coming¶ of the whites." " William Wassell, in an article in Harper's Monthly felt a¶ factual sort of hope in the freeing of "pagan savages" from "the sorcery and¶ jugglery of weasoned medicine-men" by Christian missionaries who convinced¶ them of "simple teachings of the Bible."12 In the same vein, Amanda¶ Miller celebrated the documentation of such "civilizing" successes in an 1869¶ issue of Overland Monthly:¶ The contrast between the assemblage of hideously painted savages, whose countenances¶ were rendered still the more revolting by their efforts to intensify their passions¶ of hatred and revenge in their incantations of demonaltry, and the placid and devoted¶ (Christian Indian) congregation at Simcoe, was wonderful and delightful.1¶ By 1891, a serious scholar such as Alfred Riggs could only conclude, on¶ the basis of such a "factual" record, that the Christian influence was leading the¶ American Indian to "a quickened conscience, a strengthened will, the power¶ of self-restraint . .. power to labor patiently, economy, thrift . . . a new spiritual¶ impulse, and a new revelation . . . and the customs o f . . . a social order."14 There¶ were many similar pieces in journals with titles such as Popular Science Monthly,¶ North American Review, Nation, American Quarterly, Century, Scribner's Magazine,¶ New Englander and Yale Review, Forum, and others.1" The conclusions of¶ Alexander Whitaker were not only continued, but expanded upon.¶ It is relatively easy to perceive how, during the nineteenth century, any¶ valid concept ever possessed by the English speaking population of North¶ America as to Native Americans being peoples in their own right, peoples¶ with entirely legitimate belief systems, values, knowledge and lifeways,¶ had been lost in the distortion popularly presented through literature and¶ pseudoscience. The stereotypes had assumed a documented "authenticity" in¶ the public consciousness. Such a process cannot be viewed as meaningless distortion. For stereotyped and stereotyper alike, it becomes dehumanization. As Russell Means put it in 1980:¶ [W]ho seems most expert at dehumanizing other people? And why? Soldiers who have¶ seen a lot of combat learn to do this to the enemy before going back into combat.¶ Murderers do it before going out to murder. Nazi SS guards did it to concentration camp inmates. Cops do it. Corporation leaders do it to the workers they send into uranium¶ mines and steel mills. Politicians do it to everyone in sight. And what the process¶ has in common for each group doing the dehumanizing is that it makes it alright to kill¶ and otherwise destroy other people. One of the Christian commandments says, "Thou¶ shall not kill," at least not humans, so the trick is to mentally convert the victims into¶ non-humans. Then you can claim a violation of your own commandment as a virtue.¶ Viewed in this way, treatment of the American Indian in the arena of¶ American literature must be seen as part and parcel of the Angloamerican¶ conquest of the North American continent. How else could attitudes among¶ the general public have been so massively conditioned to accept a system or¶ policy of non-stop expropriation and genocide of the native population¶ throughout U.S. history? The dehumanizing aspects of the stereotyping of¶ American Indians in American literature may be seen as an historical¶ requirement of an imperial process. No other description of the conquest of¶ America seems adequate.

#### Lack of decolonization results in ongoing genocide, assimilation and annihilation of indigenous peoples and culture- k2 solve environmental degradation, heterosexism, classism, racism, sexism and militarism

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

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

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

#### Any form of liberation that perpetuates the occupation of Indigenous territory is only colonialism in another form. The demand to end the occupation of First American lands is a necessary prerequisite to solving other forms of oppression and any form of positive social change

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

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

## 3

#### Continued indefinite detention key to winning the war on terror

Hodgkinson ‘12

[Sandra L. Hodgkinson, former Chief of Staff for Deputy Secretary of Defense William J. Lynn, III and Deputy Assistant Secretary of Defense for Detainee Affairs and Distinguished Visiting Research Fellow at National Defense University, “Executive Power in a War Without End: Goldsmith, the Erosion of Executive Authority on Detention, and the End of the War on Terror,” CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW VOL. 45, Fall 2012, [http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.pdf //](http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.pdf%20//) wyo-ch]

There is no such thing as a war without end. All wars come to an end, even though it may be hard to predict when that end will be. When President Woodrow Wilson first coined the phrase “the war to end all wars” when speaking to Congress about World War I39 or when President Roosevelt referred to World War II as the “Long War,”40 neither president could easily predict when the war would end. At some level of destruction, some level of defeat, or some level of fighting fatigue, one way or another, wars end. In a classic state on-state conflict, the typical ways to end a war are through a peace treaty, defeat, or surrender.41 World War I ended with the Treaty of Versailles,42 while World War II ended with Germany and Japan surrendering.43 Generally, upon conclusion of the war, it is presumed that most, if not all, members of the country’s regular armed forces will lay down their arms and comply with the outcome of the war. This, however, is not always the case. Many modern conflicts have evolved into protracted insurgencies when non-government controlled forces are not ready to give up the fight, and are able to continue to fight. The recent example of Iraq is illustrative, as Iraqi insurgents have continued to destabilize the country long after the official war has ended.44 Northern Ireland is another example of a country where the fighting continued long after the peace process was in place.45 There is a path to victory for the United States in this war against the transnational non-state actor al-Qaeda, even if every member of al-Qaeda does not lay down his arms in surrender or acknowledge defeat. There are four steps on this path to victory. First, the United States and its allies must kill or capture the senior al-Qaeda leadership. We are doing that. The point regarding kill or capture is critical, as a state cannot have a policy that requires it to kill an enemy who surrenders.46 There must always be a detention option available, which is why military detention must remain a legitimate tool for use in this and future wars.47 Drone strikes are a principal tool being used to kill senior al-Qaeda leadership who are not encountered directly on the traditional kinetic battlefield and are a legitimate use of force under the law of armed conflict.48 Second, the United States and its allies must cut off al-Qaeda’s methods of travel. We have been working with allies consistently on this issue since September 11, 2001, through a vast array of terrorist watch lists, which identify terrorists and prevent them from traveling, particularly to areas where they may pose a threat to United States, allied forces, or other personnel.49 Third, the United States and its allies must cut off al-Qaeda’s funding sources. We have been working with allies to freeze assets associated with terrorism in banks around the world, while at the same time creating new laws that criminalize financial support to terrorists.50 The United Nations has called on countries to cut off terrorist means and methods of travel, and their funding.51 Lastly, the United States and NATO allies will have to continue efforts to “win the peace” in Afghanistan and elsewhere through continued counter-insurgency efforts, rehabilitation and reintegration programs, and developmental assistance and funding.52 Achieving these objectives will not make every member of al Qaeda and their affiliated groups lay down their weapons, but it will make their ability to act on a global scale in the way that they did on 9/11 and the years following much more difficult. They will become, in essence, splintered or localized terrorist groups, with the ability to certainly carry out harm and terrorist threats on a more localized scale, but not on the same global scale on which al-Qaeda has operated. As a result, they will be more similar to the other terrorist groups in the world that the United States is currently not at war with, such as Hamas, Hezbollah, and FARC, despite the fact that al Qaeda could continue to be a threat, as these groups have been for decades and continue to be.53 However, the organization will no longer be a terrorist organization which behaves like a state actor engaged in a military conflict, and as a result, the United States will no longer be at war. As a matter of law and policy, the United States has been at war with al-Qaeda, the Taliban, and their affiliates and associates responsible for the attacks of 9/11.54 The early policy statements of the Bush Administration that we were in a “War on Terror” were policy statements, rather than statements of a legal nature,55 as the war was always confined to the groups that “planned, authorized, committed or aided” the 9/11 attacks as per the AUMF.56 Some have argued that both the Bush and Obama Administrations have fairly liberally interpreted this authority.57 It is the “warlike” characteristic of al-Qaeda’s attack and the AUMF that supported the U.S. response that gave both administrations the legitimacy that they did have to treat members of these forces as enemy combatants, killing them on the battlefield and in other types of targeted strikes. When al-Qaeda is no longer behaving like a military enemy, we should continue to treat them as we treat other terrorist groups around the world—using traditional methods of law enforcement. Achieving this military victory over al-Qaeda has another extremely significant implication for the United States. It will have to begin an orderly drawdown of the detainees remaining at Guantanamo Bay, consistent with the international law of war.58 In Iraq, during 2008–2009, the United States was able to drawdown nearly 25,000 detainees predominantly from the facilities in Camp Bucca and Camp Cropper over the course of about eighteen months as the conflict was ending.59 While it was a challenging process, it was achieved in an orderly and timely manner consistent with the laws of war. There are some people that would argue that we should keep the detainees at Guantanamo Bay locked away forever, or at least as long as one or every one of these detainees poses a threat to us.60 The detainees at Guantanamo Bay are not being held under a security detention framework, which would make their individual threat level relevant to an individualized determination. Instead, they are held under the law of war, so when that war is over, they must be repatriated or released.61 They may be tried for crimes they committed during the war, either at military commissions, Article III courts, or by host nations.62 Unless some new security detention framework is developed, which seems unlikely at present, the detainees who have not been tried and convicted must be repatriated or released consistent with every other war in history.

#### Losing the WoT results in nuclear war

Barrett et al 13—PhD in Engineering and Public Policy from Carnegie Mellon University, Fellow in the RAND Stanton Nuclear Security Fellows Program, and Director of Research at Global Catastrophic Risk Institute—AND Seth Baum, PhD in Geography from Pennsylvania State University, Research Scientist at the Blue Marble Space Institute of Science, and Executive Director of Global Catastrophic Risk Institute—AND Kelly Hostetler, BS in Political Science from Columbia and Research Assistant at Global Catastrophic Risk Institute (Anthony, 24 June 2013, “Analyzing and Reducing the Risks of Inadvertent Nuclear War Between the United States and Russia,” Science & Global Security: The Technical Basis for Arms Control, Disarmament, and Nonproliferation Initiatives, Volume 21, Issue 2, Taylor & Francis)

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

## Case

#### 1st, Aff can’t solve- The executive will still violently detain in the status squo.

#### 2nd, Agamben isolates sovereignty as inevitably exclusionary of non-political life, meaning there’s no way to escape that system, rendering their offense inevitable.

#### 3rd, They don’t solve their Dillon impact evidence --- it’s about biopower broadly, they only address one instance but leave others like surveillance and the medical system in tact --- vote neg on presumption

#### 4th, No impact --- the state of exception is inevitable, and not reducible to fascism or violence

Andrew Johnson 10, LSU, Viral Politics: Jacques Derrida's account of Auto-immunity and Carl Schmitt, Master’s Thesis, <http://www.academia.edu/270766/Viral_Politics_Jacques_Derridas_account_of_Auto-immunity_and_Carl_Schmitt>, jj

There is little doubt that politics post-9/11 is haunted by Carl Schmitt: the exception has become the rule. My analysis of Derrida and his response to 9/11 and the “war on terrorism” will likewise name Schmitt as an important manifold in which to understand the Bush Administration. However, I would like to warn against a too-hasty damnation of the Bush Administration (but indeed, we must!) in terms of Schmitt. By mere analogy, Agamben juxtaposes the fates of Hitler and Bush. However, if Schmitt is correct, and indeed he is, every executive uses the exception to define their authority. Whether we are discussing Obama or Franklin Roosevelt, the use of the exception is a political reality that is not reducible to fascism or excessive violence. The exception is used all the time in ways that do not result in the massacre of thousands or millions. Instead of aligning fascism to the excess and exceptionality of the law, perhaps the measure of violence would be a more stable criterion. In fact, one of the principal conclusions of my reading of Derrida, Schmitt, and auto-immunity is the ambiguous partition that separates the political threat from the political promise.

#### 5th, double bind- the 1ac’s strong ontological claim that the state of exception is directly responsible for indefinite detention links to their first Neal evidence from solvency that criticizes totalizing explanations so either the 1ac recreates sovereign power turning case, or there are multiple explanations for how indefinite detention is made possible outside of the war powers authority, means the plan can’t solve.

#### 2nd, Aff can’t solve any of their 1AC impacts- epistemological focus trades off with solutions to the environment, famine, ethnic cleansing and poverty

Jarvis, 2K – Prof Philosophy @ U South Carolina (Darryl, Studies in International Relations, “International Relations and the Challenge of Postmodernism”, pg. 2)

While Hoffmann might well be correct, these days one can neither begin nor conclude empirical research without first discussing epistemological orientations and ontological assumptions. Like a vortex, metatheory has engulfed us all and the question of "theory" which was once used as a guide to research is now the object of research. Indeed, for a discipline whose purview is ostensibly outward looldng and international in scope, and at a time of ever encroaching globalization and transnationalism, International Relations has become increasingly provincial and inward looking. Rather than grapple with the numerous issues that confront peoples around the world, since the early 1980s the discipline has tended more and more toward obsessive self-examination.3 These days the politics of famine, environmental degradation, underdevelopment, or ethnic cleansing, let alone the cartographic machinations in Eastern Europe and the reconfiguration of the geo-global political-economy, seem scarcely to concern theorists of international politics who define the urgent task of our time to be one of metaphysical reflection and epistemological investigation. Arguably, theory is no longer concerned with the study of international relations so much as the "manner in which international relations as a discipline, and international relations as a subject matter, have been constructed."4 To be concerned with the latter is to be "on the cutting edge," where novelty has itself become "an appropriate form of scholarship."5

#### The state of exception can be contained---no impact

Mitzen 11

Jennifer, PhD, University of Chicago, Associate Professor of Political Science at Ohio State University, Michael E. Newell, “Crisis Authority, the War on Terror and the Future of Constitutional Democracy,” PDF

But what Agamben has potentially overlooked is the conversation between the government, public and media concerning the state of exception. Waever’s desecuritization theory tells us that it is possible for continued debate and media coverage to desecuritize a threat in whole or in part (Waever, 1995). As the War on Terror progressed, more academics and government officials began to speak out against the usefulness of interrogations, the reality of the terrorist threat and the morality of the administration’s policies. Some critics suggested that the terrorist threat was not as imminent as the Administration made it appear, and that “…fears of the omnipotent terrorist…may have been overblown, the threat presented within the United States by al Qaeda greatly exaggerated” (Mueller, 2006). Indeed, as Mueller points out, there have been no terrorist attacks in the United States five years prior and five years after September 11th. The resignation of administration officials, such as Jack Goldsmith, who, it was later learned, sparred with the administration over Yoo’s torture memos, their wiretapping program and their trial of suspected terrorists also contributed to this shift in sentiment (Rosen, 2007). The use of the terms “torture,” and “prisoner abuse,” that began to surface in critical media coverage of the War on Terror framed policies as immoral. As the public gradually learned more from media coverage, academic discourse, and protests from government officials, the administration and its policies saw plummeting popularity in the polls. Two-thirds of the country did not approve of Bush’s handling of the War on Terror by the end of his presidency (Harris Poll) and as of February 2009 two-thirds of the country wanted some form of investigation into torture and wiretapping policies (USA Today Poll, 2009).¶ In November 2008 a Democratic President was elected and Democrats gained substantial ground in Congress partly on promises of changing the policies in the War on Terror. Republican presidential nominees, such as Mitt Romney, who argued for the continuance of many of the Bush administration’s policies in the War on Terror, did not see success at the polls. Indeed, this could be regarded as Waever’s “speech-act failure” which constitutes the moment of desecuritization (Waever, 1995). In this sense, Agamben’s warning of “pure de-facto rule” in the War on Terror rings hollow because of one single important fact: the Bush administration peacefully transferred power to their political rivals after the 2008 elections. The terrorist threat still lingers in the far reaches of the globe, and a strictly Agamben-centric analysis would suggest that the persistence of this threat would allow for the continuance of the state of exception. If Agamben was correct that the United States was under “pure de-facto rule” then arguably its rulers could decide to stay in office and to use the military to protect their position. Instead, Bush and his administration left, suggesting that popular sovereignty remained intact.

#### 6th, No solvency – even after released from Guantanamo, people are still reduced to bare life – we’re cogs in a machine

Colatrella ‘11

[Steven, taught at Bard College, the New School and the American University of Rome, Fulbright scholar, Chair of the Department of Political and Social Sciences at John Cabot University in Rome and President of the Iowa Sociological Association, “Nothing Exceptional: Against Agamben,” Journal for Critical Education Policy Studies, vol.9. no.1, page 107-108, November 2011, Online, <http://www.jceps.com/PDFs/09-1-05.pdf>, accessed 7/23/13>//wyo-hdm]

Finally, Agamben, in his understanding of homo sacer seems to miss the most obvious point imaginable, at least to anyone familiar with the work of either Karl Marx or Karl Polanyi11, namely, that a human being reduced to bare life, to the mere physical existence without rights or guarantees, far from being a marginal figure, a canary in a coal mine, is instead the human condition of the majority of the population under capitalism. Here is where it is clear why I have stressed the autonomy of the political as a way of understanding the world that is counter-productive: it takes work to describe humanity reduced to bare life and then fail to see it all around one in the form of the proletarian majority of every society, North and South. Political deracination is clearly related to economic deracination, or to use the, in my view clearer Marxian terminology, expropriation and enclosure, or proletarianization. In what way is Agamben’s homo sacer any different than the “rightless and free” proletarian that has always existed under capitalism? Hasn’t it always been allowable to “live and let die” without remorse those unable to make a living, keep a job or income, provide for themselves or family members, keep up rent or mortgage payments, pay for a meal? Shouldn’t we see this as violence, as Zizek in his book Violence12 argues, the daily, systemic “economic” violence of market relations and the propertylessness of the majority in capitalist society? Isn’t this exactly the non-state of emergency, non-exceptional violence, that kills millions annually, that Agamben, like Arendt before him, ignores? Further, doesn’t his lack of attention to the “normal” process of proletarianization, of expropriation and enclosure, lead to his failure to see these on a grand scale with the maximum possible state violence in the colonial world, in the neocolonial world, in slavery and the slave trade, in the genocide of the Native Americans?

#### The archaeologist cannot escape to a pure visible form- they remain locked in the limits of their own making, gutting solvency.

MacKenzie, 01

(“Limits, Liminality and the Present: Foucault's Ontology of Social Criticism” By Iain MacKenzie[\*](http://limen.mi2.hr/limen1-2001/iain_mackenzie.html#author) Dr Iain MacKenzie is a Lecturer in Politics at The Queen's University of Belfast

2001 http://limen.mi2.hr/limen1-2001/iain\_mackenzie.html)

Which is to say,  Foucault had tried to do to the human sciences what they had tried to do to the human subject.  While the experts of the human sciences attempted to clarify laws of human behaviour through various levels of disinterested observation and recording, Foucault conceived of the archaeological project as the distanced observation of the discursive practices of the disciplines involved; the observation of the observers.  Dreyfus and Rabinow refer to this move as "double phenomenological bracketing"[[37]](http://limen.mi2.hr/limen1-2001/iain_mackenzie.html" \l "_ftn37" \o ")rightly suggesting that Foucault saw this act of doubling as "the road towards that stable, autonomous theory"[[38]](http://limen.mi2.hr/limen1-2001/iain_mackenzie.html" \l "_ftn38" \o ")that would allow for the study of  the human sciences if not of human agents themselves. Yet the archaeologist's only props are the dubious assumptions that discursive practices are visible in a pure form - as types of "science-objects"[[39]](http://limen.mi2.hr/limen1-2001/iain_mackenzie.html" \l "_ftn39" \o ")- to the gaze of the archaeologist; that the study of discourse is readily available to the "phenomenologically detached" archaeologist; that the archaeologist can continue the inquiry without discursive constraints.  For the practice of archaeological analysis it is necessary that the study of discourse somehow escapes the problems generated by the study of "man".  Yet it is far from clear how this is achieved.  To what extent did Foucault's archaeology actually escape from the analytic of finitude that it sought to examine?As Foucault argues that the human sciences are caught between the finite object of study and the subjectivity of the scientists, between the "enslaved sovereign" and the "observed spectator", so archaeology is caught between the archaeologist's capability to be an inquirer into history on a-historical grounds, while also claiming to chart the historicity of the human sciences.  The archaeologist must, firstly try to deny her own finitude and claim knowledge of events that is unlimited by the conditions of knowing, while secondly affirming her finitude in order that these conditions of knowing are available.  Foucault the archaeologist, in other words, becomes trapped within the limits of his own making; limits that define his attitude yet that must remain hidden from him.  This is the limit of the analytic of finitude; these limits were as Blanchot points out "the aspirations of a structuralism then in its death throes".[[40]](http://limen.mi2.hr/limen1-2001/iain_mackenzie.html" \l "_ftn40" \o ")

# 2NC

#### Focus on language-discourse in the war on terror fails to create effective models for combatting violence, understanding war, and history proves there’s no causality between language and war

Rodwell, 05

(Jonathan, PhD student at Manchester Met. researching the U.S. Foreign Policy, “Trendy But Empty: A Response to Richard Jackson,” 2005, <http://www.49thparallel.bham.ac.uk/back/issue15/rodwell1.htm>) /wyo-mm

However, having said that, the problem is Jackson’s own theoretical underpinning, his own justification for the importance of language. If he was merely proposing that the understanding of language as one of many causal factors is important that would be fine. But he is not. The epistemological and theoretical framework of his argument means the ONLY thing we should look at is language and this is the problem.[ii] Rather than being a fairly simple, but nonetheless valid, argument, because of the theoretical justification it actually becomes an almost nonsensical. My response is roughly laid out in four parts. Firstly I will argue that such methodology, in isolation, is fundamentally reductionist with a theoretical underpinning that does not conceal this simplicity. Secondly, that a strict use of post-structural discourse analysis results in an epistemological cul-de-sac in which the writer cannot actually say anything. Moreover the reader has no reason to accept anything that has been written. The result is at best an explanation that remains as equally valid as any other possible interpretation and at worse a work that retains no critical force whatsoever. Thirdly, possible arguments in response to this charge; that such approaches provide a more acceptable explanation than others are, in effect, both a tacit acceptance of the poverty of force within the approach and of the complete lack of understanding of the identifiable effects of the real world around us; thus highlighting the contradictions within post-structural claims to be moving beyond traditional causality, re-affirming that rather than pursuing a post-structural approach we should continue to employ the traditional methodologies within History, Politics and International Relations. Finally as a consequence of these limitations I will argue that the post-structural call for ‘intertextuals’ must be practiced rather than merely preached and that an understanding and utilisation of all possible theoretical approaches must be maintained if academic writing is to remain useful rather than self-contained and narrative. Ultimately I conclude that whilst undeniably of some value post-structural approaches are at best a footnote in our understanding . The first major problem then is that historiographically discourse analysis is so capacious as to be largely of little use. The process of inscription identity, of discourse development is not given any political or historical context, it is argued that it just works, is simply a universal phenomenon. It is history that explains everything and therefore actually explains nothing. To be specific if the U.S. and every other nation is continually reproducing identities through ‘othering’ it is a constant and universal phenomenon that fails to help us understand at all why one result of the othering turned out one way and differently at another time. For example, how could one explain how the process resulted in the 2003 invasion of Iraq but didn’t produce a similar invasion of Afghanistan in 1979 when that country (and by the logic of the Regan administrations discourse) the West was threatened by the ‘Evil Empire’. By the logical of discourse analysis in both cases these policies were the result of politicians being able to discipline and control the political agenda to produce the outcomes. So why were the outcomes not the same? To reiterate the point how do we explain that the language of the War on Terror actually managed to result in the eventual Afghan invasion in 2002? Surely it is impossible to explain how George W. Bush was able to convince his people (and incidentally the U.N and Nato) to support a war in Afghanistan without referring to a simple fact outside of the discourse; the fact that a known terrorist in Afghanistan actually admitted to the murder of thousands of people on the 11h of Sepetember 2001. The point is that if the discursive ‘othering’ of an ‘alien’ people or group is what really gave the U.S. the opportunity to persue the war in Afghanistan one must surly wonder why Afghanistan. Why not North Korea? Or Scotland? If the discourse is so powerfully useful in it’s own right why could it not have happened anywhere at any time and more often? Why could the British government not have been able to justify an armed invasion and regime change in Northern Ireland throughout the terrorist violence of the 1980’s? Surely they could have just employed the same discursive trickery as George W. Bush? Jackson is absolutely right when he points out that the actuall threat posed by Afghanistan or Iraq today may have been thoroughly misguided and conflated and that there must be more to explain why those wars were enacted at that time. Unfortunately that explanation cannot simply come from the result of inscripting identity and discourse. On top of this there is the clear problem that the consequences of the discursive othering are not necessarily what Jackson would seem to identify. This is a problem consistent through David Campbell’s original work on which Jackson’s approach is based[iii]. David Campbell argued for a linguistic process that ‘always results in an other being marginalized’ or has the potential for ‘demonisation’[iv]. At the same time Jackson, building upon this, maintains without qualification that the systematic and institutionalised abuse of Iraqi prisoners first exposed in April 2004 “is a direct consequence of the language used by senior administration officials: conceiving of terrorist suspects as ‘evil’, ‘inhuman’ and ‘faceless enemies of freedom creates an atmosphere where abuses become normalised and tolerated”[v]. The only problem is that the process of differentiation does not actually necessarily produce dislike or antagonism. In the 1940’s and 50’s even subjected to the language of the ‘Red Scare’ it’s obvious not all Americans came to see the Soviets as an ‘other’ of their nightmares. And in Iraq the abuses of Iraqi prisoners are isolated cases, it is not the case that the U.S. militarily summarily abuses prisoners as a result of language. Surely the massive protest against the war, even in the U.S. itself, is also a self evident example that the language of ‘evil’ and ‘inhumanity’ does not necessarily produce an outcome that marginalises or demonises an ‘other’. Indeed one of the points of discourse is that we are continually differentiating ourselves from all others around us without this necessarily leading us to hate fear or abuse anyone.[vi] Consequently, the clear fear of the Soviet Union during the height of the Cold War, and the abuses at Abu Ghirab are unusual cases. To understand what is going on we must ask how far can the process of inscripting identity really go towards explaining them? As a result at best all discourse analysis provides us with is a set of universals and a heuristic model.

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

Steinberg and Freely 08

(David L., lecturer of communication studies – University of Miami, and Austin J.,Boston based attorney who focuses on criminal, personal injury and civil rights law, “Argumentation and Debate: Critical Thinking for Reasoned Decision Making” p. 9-10//wyoccd)

After several days of intense debate, first the United States House of Representatives and then the U.S. Senate voted to authorize President George W. Bush to attack Iraq if Saddam Hussein refused to give up weapons of mass destruction as required by United Nations's resolutions. Debate about a possible military\* action against Iraq continued in various governmental bodies and in the public for six months, until President Bush ordered an attack on Baghdad, beginning Operation Iraqi Freedom, the military campaign against the Iraqi regime of Saddam Hussein. He did so despite the unwillingness of the U.N. Security Council to support the military action, and in the face of significant international opposition.¶ Meanwhile, and perhaps equally difficult for the parties involved, a young couple deliberated over whether they should purchase a large home to accommodate their growing family or should sacrifice living space to reside in an area with better public schools; elsewhere a college sophomore reconsidered his major and a senior her choice of law school, graduate school, or a job. Each of these\* situations called for decisions to be made. Each decision maker worked hard to make well-reasoned decisions.¶ Decision making is a thoughtful process of choosing among a variety of options for acting or thinking. It requires that the decider make a choice. Life demands decision making. We make countless individual decisions every day. To make some of those decisions, we work hard to employ care and consideration; others seem to just happen. Couples, families, groups of friends, and coworkers come together to make choices, and decision-making homes from committees to juries to the U.S. Congress and the United Nations make decisions that impact us all. Every profession requires effective and ethical decision making, as do our school, community, and social organizations.¶ We all make many decisions even- day. To refinance or sell one's home, to buy a high-performance SUV or an economical hybrid car. what major to select, what to have for dinner, what candidate CO vote for. paper or plastic, all present lis with choices. Should the president deal with an international crisis through military invasion or diplomacy? How should the U.S. Congress act to address illegal immigration?¶ Is the defendant guilty as accused? Tlie Daily Show or the ball game? And upon what information should I rely to make my decision? Certainly some of these decisions are more consequential than others. Which amendment to vote for, what television program to watch, what course to take, which phone plan to purchase, and which diet to pursue all present unique challenges. At our best, we seek out research and data to inform our decisions. Yet even the choice of which information to attend to requires decision making. In 2006, TIMI: magazine named YOU its "Person of the Year." Congratulations! Its selection was based on the participation not of ''great men" in the creation of history, but rather on the contributions of a community of anonymous participants in the evolution of information. Through blogs. online networking. You Tube. Facebook, MySpace, Wikipedia, and many other "wikis," knowledge and "truth" are created from the bottom up, bypassing the authoritarian control of newspeople. academics, and publishers. We have access to infinite quantities of information, but how do we sort through it and select the best information for our needs?¶ The ability of every decision maker to make good, reasoned, and ethical decisions relies heavily upon their ability to think critically. Critical thinking enables one to break argumentation down to its component parts in order to evaluate its relative validity and strength. Critical thinkers are better users of information, as well as better advocates.¶ Colleges and universities expect their students to develop their critical thinking skills and may require students to take designated courses to that end. The importance and value of such study is widely recognized.¶ Much of the most significant communication of our lives is conducted in the form of debates. These may take place in intrapersonal communications, in which we weigh the pros and cons of an important decision in our own minds, or they may take place in interpersonal communications, in which we listen to arguments intended to influence our decision or participate in exchanges to influence the decisions of others.¶ Our success or failure in life is largely determined by our ability to make wise decisions for ourselves and to influence the decisions of others in ways that are beneficial to us. Much of our significant, purposeful activity is concerned with making decisions. Whether to join a campus organization, go to graduate school, accept a job oiler, buy a car or house, move to another city, invest in a certain stock, or vote for Garcia—these are just a few of the thousands of decisions we may have to make. Often, intelligent self-interest or a sense of responsibility will require us to win the support of others. We may want a scholarship or a particular job for ourselves, a customer for out product, or a vote for our favored political candidate

#### A topical version of the aff is capable of radical change

Orly **Lobel**, University of San Diego Assistant Professor of Law, 200**7**, 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**.

**This year’s resolution offers a crucial opportunity for political engagement --- policy relevant debate about war powers decision-making is critical to hold the government accountable for their hypocrisy --- only engaging specific proposals and learning the language of the war-machine solves**

--we can use these categories to critique them; simulation does not undercut our potential for critique

--have to roll-play the enemy to know their language and learn their strategies

**Mellor, European University Institute Graduate Student, 13**

(Ewan E. Mellor, “Why policy relevance is a moral necessity: Just war theory, impact, and UAVs,” Paper Prepared for BISA Conference 2013, http://www.academia.edu/4175480/Why\_policy\_relevance\_is\_a\_moral\_necessity\_Just\_war\_theory\_impact\_and\_UAVs, accessed 10-20-13, CMM)

**This** section of the paper **considers** more generally **the need for just war theorists to engage with policy debate about the use of force**, **as well as to engage with the** more fundamental moral and philosophical principles of the **just war tradition**. **It draws on** John **Kelsay’s conception of just war thinking as being a social practice**,35 as well as on Michael Walzer’s understanding of the role of the social critic in society.36 It argues that **the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.”**37 ¶ Kelsay argues that: [**T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force** . . . **citizens who choose to speak in just war terms express commitments . . . [i]n the process of giving and asking for reasons for going to war, those who argue in just war terms seek to influence policy by persuading others that their analysis provides a way to express and fulfil the desire that military actions be both wise and just**.38 ¶ He also argues that **“good just war thinking involves continuous and complete deliberation**, in the sense that one attends to all the standard criteria at war’s inception, at its end, and throughout the course of the conflict.”39 This is important as **it highlights the need for just war scholars to engage with the ongoing operations in war and the specific policies that are involved.** The question of whether a particular war is just or unjust, and the question of whether a particular weapon (like drones) can be used in accordance with the jus in bello criteria, only cover a part of the overall justice of the war. **Without an engagement with the reality of war, in terms of the policies used in waging it, it is impossible to engage with the “moral reality of war,**”40 **in terms of being able to discuss it and judge it in moral terms**. ¶ Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. **The just war theorist, as a social critic, must be involved with his or her own society and its practices**. In the same way that the social critic’s distance from his or her society is measured in inches and not miles,41 **the just war theorist must be close to and must understand the language through which war is constituted,** interpreted and reinterpreted.42 **It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to demonstrate its hypocrisy and to show the gap that exists between its practice and its values.**43 **The tradition itself** provides a set of values and principles and, as argued by Cian O’Driscoll, **constitutes a “language of engagement” to spur participation in public and political debate**.44 T**his language is** part of “our common heritage, **the product of many centuries of arguing about war**.”45 **These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force**.46 **By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis.¶ Engaging with the reality of war requires recognising that war is**, as Clausewitz stated, **a continuation of policy.** **War,** according to Clausewitz, **is subordinate to politics and to political choices and these political choices can, and must, be judged and critiqued**.47 **Engagement and political debate are morally necessary as the alternative is disengagement and moral quietude**, which is a sacrifice of the obligations of citizenship.48 **This engagement must bring just war theorists into contact with the policy makers and will require work that is accessible and relevant to policy makers,** **however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power.** **By engaging in detail with the policies being pursued and their concordance or otherwise with the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language.** In contrast to the view, suggested by Kenneth Anderson, that “the public cannot be made part of the debate” and that “[w]e are necessarily committed into the hands of our political leadership”,49 it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda,50 is a grotesque act of intellectual irresponsibility. As Walzer has argued, **it is precisely because it is “our country” that we are “especially obligated to criticise its policies**.”51 ¶ Conclusion ¶ This paper has discussed the empirics of the policies of drone strikes in the ongoing conflict with those associate with al Qaeda. It has demonstrated that there are significant moral questions raised by the just war tradition regarding some aspects of these policies and it has argued that, thus far**, just war scholars have not paid sufficient attention or engaged in sufficient detail with the policy implications of drone use.** As such it has been argued that **it is necessary for just war theorists** to engage more directly with these issues and **to ensure that their work is policy relevant**, **not in a utilitarian sense of abdicating from speaking the truth in the face of power, but by forcing policy makers to justify their actions according to the principles of the just war tradition,** principles which they invoke themselves in formulating policy. **By highlighting hypocrisy and providing the tools and language for the interpretation of action, the just war tradition provides the basis for the public engagement and political activism that are necessary for democratic politics**.52

**Other educational forums are failing, that means debate is crucial to in-depth education of presidential authority that allows for effective checks on abuse.**

**Adler, professor of political science at Idaho State University, 5**

(David Gray, “The Law: Textbooks and the President’s Constitutional Powers,” Presidential Studies Quarterly 35, no. 2 ( June), Wilson Online Library, accessed 5-24-13, CMM)

Each year, approximately **one million college** and university **students** **across the¶ United States enroll in an introductory course on American government and politics**. **For**¶ many, and perhaps **most** of these students, “**Political Science 101” will represent their¶ only exposure to the principles and practices of American government. What they carry¶ away from that experience** in the form of lectures, classroom discussions, and reading¶ assignments **will significantly inform and shape their comprehension of government and¶ politics, and perhaps mold their behavior as citizens**. Assuming that students read the¶ textbooks assigned to them, it is a fair deduction that **their impressions and understanding¶ of governmental powers**—legislative, executive, and judicial—**will be influenced by¶ authors’ descriptions and explanations, even accounting for instructors’ corrections and¶ clarifications of textbook discussion and commentary.** If true, we might wonder how presidential¶ power is discussed, portrayed, and described in 101 textbooks. How will student¶ readers, transformed into citizens, and perhaps active and participatory citizens, come to¶ understand the constitutional powers vested in the Office of the Presidency? In the face¶ of sweeping assertions of executive power by recent presidents, this is no mean question.¶ Indeed, it is a question of great moment, particularly in the age of a “War on Terrorism”¶ which is principally, if not exclusively designed, shaped, and conducted by the president,¶ and at a juncture in history when presidents, like candidates for the office, claim increasing¶ responsibilities and powers in both foreign and domestic affairs, and when the public¶ imposes rising and demanding expectations—security, economic, cultural, and social—¶ on the nation’s chief executive. Then too, there is the seminal claim of a unilateral executive¶ power to wage preemptive war that must be considered and evaluated. **¶¶**¶ **In a republican form of government, which emphasizes** the premise and promise¶ of **self-governance, there is,** as Thomas Jefferson contended, **a great need for education**.¶ Moreover, **if it is true**, as James Madison explained in Federalist no. 51, **that the overarching¶ problem confronting a republic is the issue of persuading the government to¶ obey the law, and that the attainment of that goal requires a principal reliance on the¶ citizenry, how is an unarmed or untutored citizen expected to police presidential assertions¶ of power?** The rise of what scholars have variously described as the “imperial presidency”¶ (Schlesinger 1973), the “textbook presidency” (Cronin 1975), and the “personal¶ presidency” (Lowi 1985), in short, what James McGregor Burns described as “presidential¶ government” (Burns 1966), has infused Madison’s challenge with a sense of urgency.¶ Viewed in that light, **we are entitled to wonder whether 101 textbooks will equip students¶ with enough knowledge about the president’s constitutional powers to recognize¶ executive exaggeration, deceit, and sophistry, as well as aggrandizement, abuse, and¶ usurpation of power. ¶¶**¶Thirty years ago, Thomas E. Cronin wrote a widely read and admired book, The¶ State of the Presidency, in which he explained the concept of the “textbook presidency”¶ (Cronin 1975, 24). Professor Cronin observed: “The textbook presidency describes and¶ extols a chief executive who is generally benevolent, omnipotent, omniscient and highly¶ moral.” “Textbooks,” as Cronin noted, “summarize current thinking and guide the work¶ of contemporary researchers. For more than twenty years after the Franklin D. Roosevelt¶ presidency, most textbook treatments of the presidency seriously inflated and unrealistically¶ interpreted presidential competence and beneficence.” As a consequence, Cronin¶ believed, there emerged a consensus among academics that¶ If society and our system were to be led, they suggested, leadership would have to come¶ from the White House. Whatever strengthened the president’s hand, strengthened the¶ nation. Introductory **American government textbooks and related political writings in the¶ 1950s and 1960s endorsed the activist, purposeful, power maximizing model of presidential¶ leadership. They often glorified the manipulative leader, and almost all of them exaggerated¶ to some degree past and future presidential performance**. Such **distortion risked¶ misleading students and leaders alike about the invention and carrying out of creative civic¶ and political responsibilities.** **Moreover, these writings hardly prepared the nation for the¶ abuses of presidential power witnessed during the late 1960s and early 1970s. Perhaps some¶ of the distorted interpretations of what a president could and should accomplish actually¶ encouraged some of these abuses.** (Cronin 1975, 24) **¶¶¶**¶ Academe’s “textbook devotion,” what Cronin later described in a revised edition¶ of The State of the Presidency as “the cult of the presidency,” mirrored the public view of¶ the office (Cronin 1980, 76). In the wake of Cold War incidents, American citizens¶ “looked to presidential leadership with a mixture of awe, support and trust. Where else¶ could they look?” But the admiration, Cronin explained, served to promote unrealistic¶ expectations and “false notions and myths.” **There was little expression in the literature¶ about “the possibility of the abuse of power” and the consequent need for improving¶ checks and balances. What was missing in the textbooks**, Cronin observed, “**was a better¶ sense of proportion and a respectful skepticism about what it was that a president could¶ achieve”** (Cronin 1980, 770). **¶¶¶**¶ **A random survey of some twenty American government textbooks largely confirms¶** Professor **Cronin’s** observations and **findings. There remains remarkably little concern¶ about the abuse of presidential power** in spite of scandals, travesties, and transgressions¶ that the nation has endured from Vietnam, Watergate, and Iran-Contra to unbridled¶ claims of executive power in foreign and domestic affairs. Professor Cronin’s study was¶ not primarily concerned with the way in which the “textbook presidency” portrayed the¶ president’s constitutional power, but that is the principal purpose of this essay. This¶ review reveals two broad themes. First**, most textbooks reflect an inattentiveness to, a¶ general disregard of, and perhaps an underappreciation for the importance of the president’s¶ constitutional powers**. **With few exceptions** (e.g., Berman and Murphy 2003;¶ Hudson 2004; Landy and Milkis 2004), **textbooks offer little more than a cursory review¶ of the president’s constitutional powers. The treatment of the presidential roles in warmaking¶ and foreign affairs receives disproportionate coverage, to be sure, but even those¶ discussions leave students in doubt about the constitutional allocation of foreign affairs¶ and war-making powers between the president and Congress**. Tellingly, **these accounts¶ are located in chapters devoted to discussion of presidential, not congressional, powers,¶ despite the fact that the Constitution vests in the Congress, not the president, the principal¶ authority to formulate, manage, and conduct the nation’s foreign relations** (Adler¶ and George 1996**). The textbook arrangement likely reflects the practice and pattern of¶ executive domination of American foreign policy, and it may also reflect authorial preference¶ for, and celebration of, an expansive executive. The textbook treatment of the¶ president’s constitutional authority**, moreover, **virtually ignores the debates in the Constitutional¶ Convention and various writings contemporaneous with the framing of the¶ Constitution,** including the Federalist Papers, which illuminate the meaning of constitutional¶ provisions. Incredibly, **the texts ignore altogether Federalist nos. 69 and 75—¶ the two essays most critical to any effort to comprehend the constitutional blueprint for¶ foreign affairs**. In Federalist no. 69, for example, Alexander Hamilton engaged in a¶ minute analysis of presidential power in foreign policy as a means of distinguishing the¶ president’s relatively meager powers from the full body of authority possessed by the¶ king of England. The most dramatic distinction, Hamilton observed, is to be found in¶ the fact that the king may engage his country in war, but in the United States, that discretionary¶ authority is vested solely in Congress (Hamilton, Madison, and Jay 1937,¶ Federalist no. 69, 448). And in Federalist no. 75, it fell again to Hamilton, the darling¶ among enthusiasts of a strong executive, to lay bare the essential reason why the Constitution¶ does not grant to the president the nation’s foreign affairs authority:¶ The history of human conduct does not warrant that exalted opinion of human virtue which¶ would make it wise in a nation to commit interests of so delicate and momentous a kind,¶ as those which concern its intercourse with the rest of the world, to the sole disposal of¶ a magistrate created and circumstanced as would be a president of the United States.¶ (Hamilton, Madison, and Jay 1937, Federalist no. 75, 487) **¶¶¶**¶ **There is, in the troubling omission of those Federalist Papers, an important consequence¶ for students as citizens, and it is one that pervades textbook discussions of¶ presidential actions: the lack of normative yardsticks, analyses, and critiques. There is¶ precious little in the way of normative commentary; as a result, students are deprived¶ of critical tools that they might utilize as a means of measuring and evaluating the¶ constitutionality of executive actions. Since when did effective scholarship shrink from¶ offering and defending a viewpoint?** With the exception of William Hudson’s text,¶ American Democracy in Peril (Hudson 2004, 291-331), and perhaps a few others, few¶ textbooks employ normative language and judgments such as “aggrandizement,”¶ “abuse,” and “usurpation” of power. **Most texts prefer vanilla descriptions to constitutional¶ critiques and criticisms. As a consequence of this scholarly reticence students,¶ it seems, are vulnerable to presidential assertions of constitutional power. They are largely¶ untutored and thus unequipped to pose citizen challenges to executive claims of¶ authority. ¶¶¶**¶This essay is duly obliged to acknowledge, of course, that textbook disregard of¶ the president’s constitutional powers may be attributed to the remarkable influence¶ of Richard Neustadt’s pioneering work, Presidential Power, a book in which he¶ asserted that presidential power rests not on formal constitutional grants but rather¶ on the “power to persuade” (Neustadt 1960, 32). As a consequence of this understanding,¶ it is familiar, Professor Neustadt evinced virtually no interest in constitutional¶ powers and limitations. On the contrary, Neustadt’s Presidential Power was¶ a virtual political manual written in the tradition of Machiavelli’s The Prince, in¶ which he explained how a president might acquire, maintain, and exercise power. Above¶ all, it was devoted to the effort to maximize power. The celebration of a strong presidency¶ exercising personal, not constitutional, power remains a core principle in 101¶ textbooks, despite the prominence in recent years of presidential abuses, scandals, and¶ failures. **¶¶¶**¶ The second theme that emerges, and the focal point of the remainder of this essay,¶ is the problem of confused and misleading claims and characterizations of presidential¶ power derived from the Constitution. **Students’ confusion about the metes and bounds¶ of presidential power will render them vulnerable to sweeping assertions of executive¶ power**. As a consequence, **they will be unable to perform their duties as Madisonian¶ Monitors.** Let us turn our attention to four areas of concern: (1) claims about presidential¶ domination of American foreign policy, (2) assertions about presidential power to¶ initiate war, (3) characterizations and assertions about the “executive power” of the president,¶ and (4) mischaracterizations about historic episodes involving the assertions of¶ broad presidential powers.

**An unaccountable executive results in massive policy errors –guarantees a wave of new wars and abusive policies.**

**Chehab, Georgetown Law Center, 12**

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.30-3, accessed 9-15-13, TAP]

The practical, pragmatic justification for the COAACC derives largely from considering social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, **psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts** (i.e., heuristics) **for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations**.**139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position**.140 This theory suggests that **some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment** given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 **The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints**.147

**Professor** Cass **Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced 33 prominent and devastating blunders,150 including the Iraq War** of 2003,151 **the Bay of Pigs** debacle in the 1960’s,152 **and** the controversial decision to wage war against **Vietnam**.153

Professor **Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority** in determining who is eligible for assassination **can only serve to increase the likelihood for committing significant errors**.155 The reality is that **psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making**.

# 1NR

#### As long as we allow the United States to exist it will continue to exercise its biopolitical caesura against native bodies- means the affirmative can’t solve and you should vote neg on presumption

PUGLIESE ’13

[Joseph, Research Director, MMCCS @ Macquarie U., State Violence and the Execution of Law: Biopolitical Caesurae of Torture, Black Sites, Drones, pp. 218-219//wyo-hdm]

The extensive picture of the nuclear testing program that has unfolded in the lands of Newe Sogobia includes the exposure of the Western Shoshone to the toxic fallout of the tests: the experimental use of live pigs, dressed in army uniforms to see how they would withstand the blast, filmed by ‘the remote-controlled camera [that] captured the pigs writhing and squealing as they died,’ and a ‘herd of horses that wandered east onto the Sheahan lands with their eyes burnt out, left empty sockets by a blast.’86 These haunting images of useless suffering evidence the disposable lives of those subjects violently cut off from ‘the culture’ and posi- tioned in the lethal vestibule of the colonizer. In this exercise of state violence, the targets of the state’s speciesism (immolated pigs and blinded horses) and racio- speciesism (Native Americans as ‘nonpeople’) live and die under the decree of the biopolitical caesura. For Carrie Dann and her sister Mary, the lived violence of this biopolitical categorization and partitioning is encapsulated by the fact that, as Native Americans, they are ‘under the jurisdiction of a department that otherwise manages “natural resources” – trees, animals, parks, and so forth.’ The Dann sisters spell out the ramifications of this biopolitical assignation and its attendant caesura: ‘I don’t know if we’re the human species or some other kind of species,’ says Dann, to which her sister Mary sardonically replies: ‘Endangered species.’ The US policies of colonial appropriation of Indian lands and the sequestration of Native Americans into camps were conducted under the imprimatur of territo- rial laws guaranteed by what Charles Venator Santiago terms ‘the anti-democratic nature of the US Constitution.’ These territorial laws have enabled the US state to appropriate Indigenous lands and to legitimate the governance of the resulting ‘distinct spaces in an anomalous manner’ so that freedoms, rights and so on can be effectively suspended.88 The US colonial state’s biopolitical regime of gover- nance was underpinned by at least three key features: imperial westward expan- sion, as formally proclaimed by the doctrine of Manifest Destiny, a doctrine crucially underpinned by the violence of that biopolitical caesura which effectively ‘determined that natives of the world are as animals and therefore have no human rights’;89 the consequent coercive relocation of Native Americans onto lands rejected by white America because they were arid, remote and barren; and the spectacular growth of the US military during the course of the twentieth century. As Gregory Hooks and Chad Smith note, ‘This contingent intersection of Indian conquest and the rise of the Pentagon placed Native Americans at great risk of exposure to noxious military activity’90 – precisely because they were located on those very lands that were contiguous to military installations that practised the full range of toxic and environmentally destructive activities. This genocidal form of governance of Native Americans has been critically enabled by the state’s deployment of a biopolitical caesura that, in its lethal human/animal division, has ensured that Indigenous peoples can be left to die within the ecocidal landscapes generated by the military-industrial complex and its economies of war.

#### The very existence of the U.S. makes their impacts inevitable- the alternative is key to dismantling the prison-industrial complex, while their method only serves to sustain it

Churchill ‘03

[Ward, Codirector of the Colorado Chapter of the American Indian Movement. Prof. of Ethnic Studies and American Indian Studies @ U. of Colorado, Boulder BA and MA in Communications from Sangamon State, “Acts of Rebellion: The Ward Churchill Reader”, p 263-5//wyo-hdm]

I am here, however, as may have been gleaned from my opening quotation of George Manuel, to discuss a reality left unmentioned not only by Mao, but by analysts of almost every ideological persuasion. This is **the existence of** yet another world, a world composed of **a plethora of indigenous peoples**, several thousand of us, **each of whom constitutes a nation** in our own right. 3 Taken together, these nations **comprise a** nonindustrial “**Fourth World**,” a “Host World” **upon whose territories and** with whose **natural resources each of the other three**, the **worlds of** modern **statist sociopolitical and economic organization**, **have been constructed**. 4 In substance, the very existence of any state—and it doesn’t matter a bit **whether it is fascist, liberal**. To put it another way, the denial of indigenous rights, both national and individual, is integral to **the** creation and **functioning of the world** order which has evolved over the past thousand years or so, and which democratic, or marxist in orientation—**is** absolutely **contingent upon usurpation of the material and political rights of every indigenous nation within its boundaries**—is even now projecting itself in an ever more totalizing manner into our collective future. 5 We say, and I believe this includes all of us here, that we oppose this prospect, that we oppose what was once pronounced by the papacy to be the “Divine Order” of things, what England’s Queen Victoria asserted was the worlds “Natural Order, ” what George Bush, following Adolf Hitler, described as a “New World Order, ” what Bill Clinton and Newt Gingrich have sought to consummate behind alphabet soup banalities like GATT and NAFTA and the MAI. In other words, we are opposed to the entire system presently “coordinated” by bodies like the World Bank and the International Monetary Fund and the Trilateral Commission. 6 We say we oppose all of this, and, with at least equal vehemence, **we announce our opposition to** more **particularized byproducts of the trajectory** of increasingly consolidated corporate statism, or statist corporatism, or whatever else it might be more properly called, that we as a species are presently locked into. The litany is all too familiar: an increasingly **rampant** homogenization and **commodification of** our **culture**s and communities; the ever more **wanton devastation** and toxification **of our environment**; **a**n already overburdening, highly **militarized and** steadily **expanding police apparatus**, **both public and private**, attended by an historically unparalleled degree of social regimentation and an astonishingly rapid growth in the prison-industrial complex; **conversion of** our **academic institutions into** veritable **“votechs” churning out little more than military/corporate fodder**; unprecedented concentration of wealth and power…. We say we oppose it all, root and branch, and of course we are, each of us in our own way, entirely sincere in the statement of our opposition. But, with that said, and in many cases even acted upon, what do we mean? Most of us here identify ourselves as “progressives, ” so let’s start with the term “progressivism” itself. We don’t really have time available to go into this very deeply, but I’ll just observe that it comes from the word “progress, ” and that the progression involved is basically to start with what’s already here and carry it forward. The underlying premise is that the social order we were born into results from the working of “iron laws” of evolution and, however unpalatable, is therefore both necessary and inevitable. By the same token, these same deterministic forces make it equally unavoidable that what we’ve inherited can and will be improved upon. 7 The task of progressives, having apprehended the nature of the progression, is to use their insights to hurry things along. This isn’t a “liberal” articulation. It’s what’s been passing itself off as a radical left alternative to the status quo for well over a century. It forms the very core of Marx’s notion of historical materialism, as when he observes that feudalism was the social precondition for the emergence of capitalism and that capitalism is itself the essential precondition for what he conceives as socialism. Each historical phase creates the conditions for the next; that’s the crux of the progressive proposition. 8 Now you tell me, how is that fundamentally different from what Bush and Clinton have been advocating? Oh, I see. You want to “move forward” in pursuance of another set of goals and objectives than those espoused by these self-styled “centrists. ” Alright. I’ll accept that that’s true. Let me also state that I tend to find the goals and objectives advanced by **progressives** immensely preferable to anything advocated by Bush or Clinton. Fair enough? However, I must go on to observe that the differences at issue are not fundamental. They are not, as Marx would have put it, of “the base. ” Instead, they are superstructural. They **represent remedies to symptoms rather than causes**. In other words, **they do not derive from a** genuinely **radical critique of our situation**—remember, **radical means to go to the root of any phenomenon** in order **to understand it** 9 —and thus cannot offer a genuinely radical solutions. This will remain true regardless of the fervor with which progressive goals and objectives are embraced on, or the extremity with which they are pursued. Radicalism and extremism are, after all, not really synonyms. Maybe I can explain what I’m getting at here by way of indulging in a sort of grand fantasy. Close your eyes for a moment and **dream** along **with me that** the current progressive agenda has been realized. Never mind how, let’s just dream that it’s been fulfilled. Things like **racism, sexism, ageism, militarism, classism,** and the sorts of **corporatism** with which we are now afflicted have been abolished. The police have been leashed **and the prison-industrial complex dismantled**. Income disparities have been eliminated across the board, decent housing and healthcare are available to all, an amply endowed educational system is actually devoted to teaching rather than indoctrinating our children. The whole nine yards. Sound good? You bet. Nonetheless, there’s still a very basic—and I daresay uncomfortable—question which must be posed: **In this** seemingly rosy **scenario**, **what**, exactly, **happens to** the rights of **native peoples?** Face it, to envision the **progressive transformation** of “American society” **is to presuppose that “America”**—that is, the United States—**will continue to exist**. And, self-evidently, the existence of **the United States is**, as it has always been and must always be, **predicated** first and foremost **on denial of the** right of **self-determining existence to every indigenous nation within its purported borders**

#### 3rd, A method that fails to take into account the subjugation of indigenous populations recreates dominant forces of colonialism that justify mass extermination

PUGLIESE ’13

[Joseph, Research Director, MMCCS @ Macquarie U., State Violence and the Execution of Law: Biopolitical Caesurae of Torture, Black Sites, Drones, pp. 218-219//wyo-hdm]

In his unpacking of the double logic that constitutes the exercise of state sovereignty, Jens Bartleson writes that ‘Without a “foreign policy” there can be nothing domestic, since the former has as its task precisely to define the latter by domesticating what initially was foreign to it, buried in the depths of its violent prehistory and inserted as a state of nature in its contractual justification.’131 In contemporary formations of state sovereignty, Bartleson adds, ‘what is now Other to the state is not primarily contained in its own prehistory, but temporally simultaneous yet spatially distinct from it.’132 I want to flesh out Bartleson’s theoretical unpacking of state sovereignty by transposing it to the concrete territorial operations of the US state. The US state’s foreign policy on imminent threat and preventative wars, as conducted through the war on terror/al-Qaeda, re-enacts the violent domestication of what was ‘foreign’ to it even prior to its formal, constitutional establish- ment: Native Americans. The ‘violent prehistory’ that comes before the enunciative foundation of the US state through its formal Declaration of Independence figures precisely as a time synchronous with ‘a state of nature’ in which Native Americans are made, through the violence of the biopolitical caesura, coextensive with nature and are thereby relegated to the vestibule of ‘the culture’ where, as animals and lawless savages, they are compelled to undergo the colonial practices of ‘violent domestication.’ From the depths of this violence, the imperial domestication of the internal other works to establish the political and territorial sovereignty of the US state. Only after this fact can the US state delineate its territorial sovereignty, proceed to name its external/foreign others, and work to manage and control them through its foreign policies – all the while relegating its Indigenous peoples to the ‘spatially distinct’ zones of reservations, where a range of militarized and ecocidal practices can be performed by the imperial state with impunity

#### 3rd, natives are the prisoners that remain after the guards have left – the affirmatives belief that their archaeology of U.S. prisons can resolve racists detention is misguided and only serves to reproduce colonialist power structures

Mani ‘09

(Wowitan Yuha (American Name - David Swallow, Jr.) Tetoh Lakota of the Wa Naweg’a Band and lives on the Pine Ridge Indian Reservation in South Dakota, “[The Black Hills Are Everything!](http://www.russellmeansfreedom.com/2009/the-black-hills-are-everything-by-david-swallow/)”, <http://www.russellmeansfreedom.com/tag/prisoner-of-war-camp-344/>)

The Black Hills used to be occupied by the Crow Tribe.  That was way back, like in the 1700’s, even the 1600’s.  Then, the Black Hills were taken by the Shahiyela (the Cheyenne).  Then, the Lakota took them from the Cheyenne.  Finally, the white man took them from the Lakota. The Lakota look at the Black Hills as having spiritual power.  All the Plains Tribes look at them that way.  But the white man saw only the yellow rock called gold.  They tried to make deals to get the land in the Treaties of 1825, 1851, 1868, and even the Bradley Bill of the 1980’s. However, the only Treaty that should be recognized concerning the Black Hills is the Treaty of 1851.  At that time, all the tribes signed this Treaty and they signed it in a holy way.  The Lakota brought the Sacred White Buffalo Calf C’anunpa, the Cheyenne brought their 7 sacred arrows, and the Crow, Arikara, and other tribes brought their sacred bundles. They all held ceremonies before they held the pen.  They all agreed that no settlers should enter that sacred area, the Black Hills.  The way that Treaty was written, this became a non-negotiable matter from that time on.  No other Treaty would have the right to change that. But the government and homesteaders, the settlers and prospectors kept invading the Black Hills. As a result, the Federal Government renegotiated the terms and called it the Fort Laramie 1868 Treaty.  This time, the original signers of the 1851 Treaty didn’t want to sign.  Many were fighting.  There were no sacred ceremonies done and only one sacred c’anunpa, only one sacred prayer pipe, was present. The prospectors and homesteaders brought in whiskey to get many of the signers drunk so they would sign.  My grandfather told me all about this.  He saw it, personally. Mni wakan, sacred water, is what the Lakota called alcohol because it affected our people so strongly. So this is how we lost the Black Hills. Six years later, in 1874, General George Armstrong Custer took an expedition into the Black Hills which included a geologist and numerous miners.  What they found immediately caused a major gold rush and the white settlers and miners began pouring into the Black Hills.  The treaties were completely ignored. In 1876, the Indian Appropriations Act demanded the Sioux give back the Black Hills or starve under siege.  Then they ordered the destruction of all the buffalo herds.  By 1889, the Federal Government had forced the Lakota into prisoner of war camps which they now call Reservations.  According to government documents, Pine Ridge Indian Reservation is prisoner of war camp #344. Around 1990, I rode 7 years with many young people to the Crazy Horse Monument.  When we crossed our so-called homelands, we were stopped by the white landowners because we didn’t have their permission.  One old homesteader showed us his deed showing where he had bought the land from the Federal Government.  He told us that if we didn’t like it, we should go talk to the Federal Government who got it from the Louisiana Purchase. So, we lost our Black Hills.  Some said we sold them.  If so, I believe somebody took the money without any of us Lakota, Dakota, Nakota, Cheyenne or Arikara knowing it.  There is no money. In 1980, the United States Supreme Court said the Black Hills did rightfully belong to the Lakota.  They wanted to buy them from us but our People have refused that money.  The sacred Black Hills are not for sale. But that’s why the Bradley Bill was introduced in 1987 in Congress, to make it look good.  It supposedly would have let us live in the Black Hills while the Federal Government could still mine, trespass, and do whatever they wanted.  But even that was never approved. So, saying the Black Hills are ours and belong to us are just hollow, empty words.  If they are really ours, why can’t we live there?  It’s only occupied by white people with land deeds. We cannot even go to the Black Hills and exercise our spiritual ways.  We are forbidden.  We have to get permission from the Government and the BLM and then we have to follow their rules and regulations.  But if we are a sovereign nation like they said, we would have our own jurisdiction (county-state-reservation). If we do still own the Black Hills, we need a new treaty, to renegotiate a new treaty.  All the other treaties were violated or abandoned, often with the approval of Congress, without us knowing about it.  That’s not supposed to happen in nation to nation dealings. We have a treaty council, a council of elders, all kinds of councils but none of them are effective.  The government and state have kept us hungry and distracted with their projects which accomplish very little. Every other foreign nation conquered by the United States has received huge efforts towards rehabilitation and rebuilding.  Yet, while the U.S. cries about 20% unemployment, we have 80% unemployment.  We remain isolated and have living conditions which are as bad as or worse than any “third world country.”  Our life expectancy is only 48 years old for men and 52 years old for women. We are the longest prisoners of war in the world’s history.  It must change.  We need to be set free so we can deal with our own people and our children and their children. Unfortunately, most of our old people are in the spirit world.  Today, our young people have no knowledge of the treaties, the massacre of Wounded Knee, the struggle of Wounded Knee 2, or our history.  These are the reasons our culture is dying.  No one remembers the language, culture, virtues, or spirituality.  No one knows the real history. But they need to know.  If we are to survive, people need to understand.  When we’re talking about the Black Hills, it’s not just the land that was lost but our way of life.  It’s not just money.  Money is the least important thing.  We have lost our way of life. When we talk about the Black Hills, it is about everything.  That place is holy and sacred. Ho he’cetu yelo, I have spoken these words.

### Perm

#### 4th, The perm fragments coalitions

Gorelova, 2009 (Olena, “Postmodernism, native American literature, and Issues of sovereignty.” http://etd.lib.montana.edu/etd/2009/gorelova/GorelovaO0509.pdf, online, MB)

James Cox points out that the opinions described by Treuer and Womack (i.e. Treuer’s work as his “plea for aesthetic or formalist rather than cultural analyses of Native literatures” (Cox 103) and Womack’s desire for the literary critical practice to be tribally specific) create an important debate that is currently shaping a good deal of intellectual and scholastic work in Native American communities. Cox, in agreement with Womack, poses that critical practices should be relevant in an explicit manner to the everyday lives and concerns of Native peoples. He comments that consistent attention to Native histories together with consideration of social realities in American Indian communities and national storytelling traditions should create “a mode of critical inquiry that challenges scholars to be rigorously and simultaneously responsible to all three” (Cox 103). Like many other scholars who support the nationalism movement in literature, Cox remarks that “everyday native realities, Native bodies, and Native experiences should stand at the center of contemporary American Indian literary critical practices” (Cox 105). According to Cox, the ultimate purpose should be preserving and sustaining indigenous epistemologies. In pursuing this purpose, Cox, like Womack, suggests drawing closer attention to specific tribal literatures, as well as recovering works of earlier times that have not been taken into consideration. He urges to perform more lengthy tribal-specific studies as well as comparative tribally specific studies of various regions and their land issues in order to be able to share ideas and come up with solutions about the future of indigenous nations. Christopher Teuton comments on that subject that “stories and criticism should enable us [Native American nations] to create our worlds” (qtd. Cox 108). Teuton states that in Native theory the subject should be Native experience, and the object – Native community (Teuton 176). He points out that surprisingly and unfortunately little research is carried out on what functions literature performs in Native communities, how it is perceived, and what influence it has on the peoples. Teuton argues that one of the pressing needs in literary studies is acquiring knowledge of the reading practices of Native communities. He poses an important question about the connection between Native readers and writers. Teuton carried out a survey of the Cherokee Nation readers trying to find out about the Cherokee’s reading habits and tastes. His results were interesting: one of the findings, whether intentional or not, proves the notion of inherent racism towards Native American writers and scholars in mainstream academia, which is also dictating behavior to minority scholars as well. The most widely read author among the Cherokee Nation appeared to be Robert Conley, who has received numerous awards, including recognition from his peers, fellow Cherokee, even the State of Oklahoma, but somehow is nearly ignored by scholars. Teuton urges that “scholars of Native literature need to go beyond theorizing relationships with Native communities and actually create working relationships with communities” (Teuton 182). Thus, if one’s aim is to establish the ties with communities, postmodern theory is hardly applicable since it breaks those ties instead of securing them. Too often, when theorists apply postmodern theories and approaches as well as their jargon, they limit the audience to a rather small number of scholars in the academic field, therefore, cutting off the Native people (and nationalists argue for the importance of the connection to the communities and giving back to the people subjected to the study). Thus, Womack argues that postmodernism does not address Native people on their own terms and ground. Many Native scholars support a similar argument about the importance of connectedness of literature to communities and their social life. It is one of the pillars of nationalism movement in literary studies supported by Womack, Warrior, and Ortiz. Womack’s argument about the interconnectedness of tribal literature and tribal realities seems rather relevant. He points out that “whatever one might argue about postmodern representation, there is the legal reality of tribal sovereignty, recognized by the U.S. Constitution and defined over the last 160 years by the Supreme Court” and however you look at it, it still affects the lives of tribal nations and individual on an everyday basis and, therefore, has something to do with tribal literatures too (Womack 6). Thus, like many other scholars, Womack is arguing that it is practically impossible to separate society and culture from literature. Literature always comes in context and in the case of Native American literature that context should be tribal and connected to current issues of Native societies.