Disclose any theoy interp that you will read if I don’t disclose pre round interps.

I affirm, Consequentialism, or C, fails to account for some our deepest agent relative convictions. **Portmore 1:** COMBINING TELEOLOGICAL ETHICS WITH EVALUATOR RELATIVISM: A PROMISING RESULT by DOUGLAS W. PORTMORE Pacific Philosophical Quarterly 86 (2005) 95–113 © 2005 University of Southern California and Blackwell Publishing Ltd.

**There seems to be something about consequentialism that even its critics find compelling.** If not, consequentialism would surely have been dis- missed long ago. Yet despite unrelenting attacks and earlier predictions of its imminent demise, consequentialism remains alive and well. So what about it is so compelling? Well, it seems to be **the** very simple and seductive **idea that it can never be wrong to produce the best available state of affairs**.15 This would explain why consequentialism has persevered. **It would also explain why the move from act-consequentialism to rule- consequentialism has seemed an unattractive solution to the problem of reconciling consequentialism with our commonsense moral intuitions: in order to accommodate our intuitions, rule-consequentialism must give up the very thing that we found most compelling about consequentialism in the first place.16** **But if at its** foundation **consequentialism** seems **so compelling, why have so many philosophers rejected it? The answer lies with its inability to [cannot] accommodate[that] our most firmly held moral convictions.** In particular, con- sequentialism seems unable to accommodate any of the following general precepts: **(1) agents are prohibited from performing certain types of acts (e.g., murder)** even for the sake of preventing numerous others from committing comparable instances of that act-type, **(2) agents have certain special obligations** that are specific to them as individuals given their par- ticular relationships and history,17 **and (3) agents have**, in many instances, **the** moral **option of either pursuing their own interests or sacrificing those interests for the sake of the impersonal good**. These correspond respec- tively to the three basic features of commonsense morality: *constraints*, *special obligations*, and *options*.18 As a result of **consequentialism’s inability to accommodate these features, [has] counter-intuitive implications** abound: (1) **it permits agents to commit murder** and other heinous acts **for the sake of promoting the impersonal good**; (2) **it requires agents to forsake the lives and wellbeing of their** beloved if they can thereby do more to promote the impersonal good**;** **and** (3) **[since]** **it requires agents always to maximize the impersonal good**, thus leaving them without any options except where two or more acts are equally likely to produce the optimal state of affairs.

However, agent-relative consequentialism, or ARC, solves the objections with C while capturing its benefits. **Portmore 2:** COMBINING TELEOLOGICAL ETHICS WITH EVALUATOR RELATIVISM: A PROMISING RESULT by DOUGLAS W. PORTMORE Pacific Philosophical Quarterly 86 (2005) 95–113 © 2005 University of Southern California and Blackwell Publishing Ltd.

So, on the one hand, **philosophers** are repelled by such counter- intuitive implications. But, on the other hand, they **are drawn to consequentialism given the [is] compelling thought that [given] it must always be permissible to pursue the best available state of affairs**. The problem is, as most see it, that this compelling thought goes hand in hand with conse- quentialism’s counter-intuitive implications, but in actuality the two are entirely separate. **The counter-intuitive implications [its]** associated with consequentialism derive from **its agent-neutrality** while **the thought** that it **is** always permissible to pursue the best available state of affairs is some- thing shared by all teleological theories, both agent-neutral and **agent- relative**. To illustrate, **let us consider the constraint against murder. In order to accommodate such a constraint, a theory must be agent-relative** – that is, **it must give each agent the unique aim of ensuring** that she *herself* doesn’t commit murder **and it must give this aim** some degree of **priority over the agent-neutral aim of maximizing utility.** Only then will agents be prohibited from committing murder even for the sake of preventing numerous others from committing comparable murders.19 On the other hand, **the closest an agent-neutral theory can come to incorporating a constraint against murder is to give every agent the aim of minimizing murders, but this would allow an agent to commit murder for the sake of minimizing murders**, **which is just contrary to the very nature of a constraint.** Likewise, a theory must be agent-relative in order to accommodate special obligations. Take, for instance, the special obligation that parents have to rescue their *own* children from harm. Given the choice between saving the life of one’s own child and the lives of two strangers, one should save one’s own child even if, from an impersonal standpoint, it would be better to do the latter. **The only way to fully capture the nature of this special obligation is to give different agents different aims**: give me the aim that my child is rescued and you the aim that your child is rescued and give these aims priority over the agent-neutral aim of saving lives. The best an agent-neutral theory can do, on the other hand, is give everyone the aim of maximizing the number of times that parents are able to rescue their own children. But, then, agents would be required to forego the opportunity to rescue their own children if they could instead enable numerous other parents to rescue theirs, which is quite contrary to having a special obligation toward one’s own children.

**He Continues:**

In order to avoid the counter-intuitive implications associated with consequentialism, NATE must accommodate options, constraints, and special obligations. **NATE can accommodate** all three provided we accept certain axiological assumptions. To begin with, let’s consider constraints, and for the purposes of illustration let us confine our discussion to the constraint against murder. Consider the version of NATE obtained **by applying the principle “act always so as to maximize value”** to an axiology according to which both of the following are true: **[that] (1) the value of** a state of affairs in which a **murder has been committed is evaluator-relative such that its value varies according to whether or not the evaluator is the murderer in question**, **and (2) the disvalue in an agent committing murder herself is,** from her position (i.e., that of being the agent), **greater than** the disvalue in numerous others committing comparable murders.25 On this theory, **it** would be wrong to commit murder even in order prevent **numerous others** from **committing comparable murders**, and it would be wrong on teleological grounds: the state of affairs in which the agent commits murder herself is, from her position, worse than the one where numerous others commit comparable murders.26 In the same manner, **NATE could accommodate constraints against lying, stealing, convicting the innocent, etc**. NATE can also accommodate special obligations – provided, that is, that we accept certain axiological assumptions. For instance, we might suppose that the state of affairs where I save my daughter from drowning is, from my position (i.e., that of being her father), better than the one where two others each save their own son. In this way, NATE could, on teleological grounds, account for the special obligation parents have to rescue their own children. And NATE could similarly account for other sorts of special obligations.

Thus, the Standard is **Agent Relative Consequentialism.** Under this standard, whoever proves that their advocacy involves less suffering directly inflicted by the agent of action on balance, wins the round.

## Offense:

1) Currently tribal law’s regarding gun control cannot prosecute non-Indians living on reservations. **Riley:** Angela R. Riley Professor of Law at UCLA; “Indians and Guns”; [**http://georgetownlawjournal.org/files/2012/06/Riley.pdf**](http://georgetownlawjournal.org/files/2012/06/Riley.pdf); 2012 PE

Though crime is only one facet of gun ownership and use, it is clear that the question of gun control has been historically, and remains today, linked to issues of crime control and public safety. This is so even though the connection between gun control and the minimization of gun crime is seriously contested.361 Nevertheless, it is likely that, in structuring gun laws, tribal governments—like other sovereigns—will take into account the particular criminal statistics of their community (including who commits crime, against whom, and by what means) in assessing the best gun laws for their respective nations. Such an analysis may be [is] particularly critical for tribal governments. As this Article has demonstrated, reservations are notoriously difficult to police, with the safety and security of reservation residents oftentimes suffering as a consequence of the complexities of existing jurisdictional arrangements.362 In addition, reservations can fairly be said to have received far less than their fair share of attention in regards to criminal justice resources.363 This practical—if not legal364—gap in criminal jurisdiction has been the subject of much scholarly critique365 and has also led to some recent policy changes that are meant to mitigate these negative consequences.366 But the reality is that **the vast majority of reservations are home to both Indians and non-Indians**, with many being majority non-Indian.367 As a general matter, **residents are free to move on and off the reservation freely** and without impediment.368 There is little tracking by any government (tribal, state, or federal) as to who is residing on the reservation at any given time.369 All of these factors make reservation governance all the more difficult, particularly given that one’s racial and political status bear on the question of which sovereign may exercise jurisdiction in a given instance. **Tribes’ freedom to tailor gun laws to meet the needs of local communities empowers Indian nations to implement regulations** and protections that are particularly suited to them. This means that tribes may define their relationship to guns—informed by the theories of exceptionalism, citizenship, and race— with ultimate authority to enact laws that are a good cultural, institutional, and fiscal match.370 In this sense, **tribes may seek coherence and consistency in the face of an otherwise muddled body of federal Indian law.** After all, **one** of the **reason**s **federal law** and policy **regarding Indians and Indian nations**—both generally and in regards to criminal justice, in particular—**has proven faulty is that the wide diversity in Indian nations is** seldom **taken into account**. There are over 560 federally recognized Indian nations in the United States and many more that are unrecognized. These nations represent a wide diversity in terms of language, culture, religion, governance, and history, all of which drive tribes’ construction of gun regulations. Tribes that were subject to allotment, for example, had their reservations opened up to white settlement after individual allotments were assigned to tribal members.371 Such tribes—including all thirty-eight tribes in the state of Oklahoma—now must govern territory that is characterized by “checkerboarding,” with individual Indian trust allotments, Indian-owned fee land, non-Indianowned fee land, and tribal trust lands situated side by side, creating convoluted jurisdictional arrangements in some of the more rural parts of the United States. It has been said that “[p]olice working on or around Oklahoma’s patchwork reservations have to carry GPS devices because the change by a few feet in the location of a crime can determine whether it’s under state, tribal or federal authority.”372 As a result, tribal, state, and federal law enforcement officials must work together through a process of on-the-ground sovereignty arrangements. Oftentimes, **[even if] tribal and state police enter into** crossdeputization and intergovernmental **agreements** **to ensure effective** policing of Indian territory.373 Even so, **tribal police typically cannot arrest non-Indians** **for violations** of tribal law, even on Indian lands.

Thus the **Plan**: Resolved: Indian tribal governments within the United States will decide to civilly ban the private ownership of handguns for all Indian and Non-Indian residents on reservations under their jurisdiction. **Riley 2 is the solvency advocate:** Angela R. Riley Professor of Law at UCLA; “Indians and Guns”; [**http://georgetownlawjournal.org/files/2012/06/Riley.pdf**](http://georgetownlawjournal.org/files/2012/06/Riley.pdf); 2012 PE

**An**other **option is for tribes to enact a universal gun ban in the form of civil regulation**, **which would make Indians and non-Indians** alike **subject to tribal civil liability.** Here, a tribe would not have to concern itself with distinctions between Indians and non-Indians within Indian country, as **a civil gun ban within Indian country would apply to everyone**. The appeal might be fewer strains on the tribal criminal justice system, while still securing the same kind of objectives as would be sought by a criminal ban. Moreover, **the ban would be applicable to all those on the reservation** and would not—as a criminal ban might do—actually put non-Indians in a stronger position vis-a`-vis Indians on the reservation. To do so, a tribe may enact a civil code regulating the conduct of all on the reservation. When applied on Indian lands within the reservation, these laws would apply to everyone equally pursuant to the tribe’s inherent sovereign authority.412 As to nonmembers on non-Indian fee land within the reservation, violators would similarly be subject to tribal jurisdiction, as gun regulations clearly fit within Montana’s “health or welfare” exception.413 Although one potential drawback to a civil ban might be that civil laws do not provide the same panoply of punishment options as criminal law, it is here that innovative tribal solutions come into play. In the absence of criminal jurisdiction over non-Indians, tribal efforts to impact threatening or dangerous non-Indian activity must come through a noncriminal mechanism. To achieve greater control over nonmembers’ on-reservation activity, some tribes have begun to exercise civil regulatory jurisdiction over non-Indians, even in cases where the civil regulation blurs the murky edges of criminal law.414 As Indian law scholar Matthew Fletcher notes, numerous tribes are now enforcing civil offense ordinances against non-Indians to keep the charges in line with Supreme Court precedent.415 Other scholars have similarly examined how **tribes** may, for example, **hold violators in civil** (rather than criminal) **contempt** in tribal jails or impose monetary fines, community service, or restitution obligations on nonIndians who violate civil laws that are, at heart, quasi-criminal.416 **By law**, the **punishments must be noncriminal** and nonpunitive **in nature**. In the two cases cited by Matthew Fletcher in advocating for greater tribal control over reservations, for example, guns were involved.417 In both cases, the tribe charged the perpetrator with a civil offense and imposed civil, rather than criminal, penalties Tribes have engaged in these kinds of resourceful solutions for some time. The Navajo Nation, for example, has a provision in its code that sets forth the availability of “[c]ivil prosecutions of non-Indians.”419 The code makes clear that “[a]ny non-Indian alleged to have committed any offense enumerated in [the] Title may be civilly prosecuted by the Office of the Prosecutor.”420 Ever mindful of the limitations of criminal jurisdiction over non-Indians, the code goes on to stipulate that “[i]n no event shall such a civil prosecution permit incarceration of a non-Indian or permit the imposition of a criminal fine against a non-Indian.”421 The code further discusses various civil penalties that could be imposed against a non-Indian for a civil wrong.422 Other tribes have similar civil code provisions.423 Anecdotal evidence indicates this practice is increasingly common, particularly as tribes with gaming and entertainment facilities see many more nonIndians coming onto their reservations.424 The Nottawaseppi Huron Band of the Potawatomi, for example, imposes civil penalties for actions that typically might be in the purview of a criminal misdemeanor code, including indecent exposure and possession of marijuana.425 It defines these civil wrongs—such as public intoxication, possession of drug paraphernalia, and others—as “Conduct Deemed Detrimental to Public Health, Safety and Welfare,” with a seeming intent to fall within the second Montana exception.426 And some of these codes relate directly to the regulation of guns, such as the code of the Confederated Tribes of Siletz Indians in Oregon, which includes the offense of purposefully pointing a firearm at another.427 Without the power to physically constrain non-Indians, some tribes have gone further, turning to their power to exclude as a way to maintain law and order on the reservation.428 Tribes use exclusion to remove offenders from the reservation through civil means, without invoking a criminal prosecution or criminal penalties.429 Some tribes contain express language for this purpose in their civil codes. The Navajo Nation code, for example, has a provision for the “[e]xclusion from all lands subject to the territorial jurisdiction of the Navajo Nation courts.”430 The Nation is also clear about the circumstances under which an order of exclusion may be entered against a nonmember.431 Numerous other tribes—such as the Confederated Tribes of Siletz Indians, the Grand Traverse Band of Indians, and the Mille Lacs Band of Ojibwe Indians—have done the same.432 At a recent Indian law conference, a judge for the Tulalip Tribal Court also discussed using this process to rid the reservation of non-Indian wrongdoers. After a civil exclusion order is issued, she explained, the subject of the order “gets a ride to the reservation border” by tribal police and is instructed not to return.433 Exclusion of non-Indians, in fact, is an increasingly common practice amongst tribal governments. These innovative civil penalties present some novel mechanisms through which tribes may be encouraged that their laws will be generally applicable on the reservation. **The component of civil exclusion**, specifically, **may empower tribes to more aggressively remove non-Indian gun offenders from Indian country**.

If I lose plan focus or it isn’t T, then the plan just operates as a generic advantage to affirming. Voting me down is too harsh a sanction because running a plan just determines the ground that exists, setting the burdens for both sides. This means that I’m not gaining any structural advantage except for prep skew which is mitigated by the fact that the plantext is on the wiki under other my own name.

Advantages:

**Adv 1: Homicide and Suicide**

Gun violence is very prominent on reservations and is rising. **Wolff:** Edith G. C. Wolff, JD, MPH, Kellogg Foundation Fellow, Center for American Indian and Alaska Native Health, Johns Hopkins School of Hygiene and Public Health, Baltimore,; “Gun Violence on Indian Reservations: An Advocacy Campaign to Collect Data and Raise Community Awareness”; accessed 3/30/16; published September 1998; [**https://www.ihs.gov/provider/includes/themes/newihstheme/display\_objects/documents/1990\_1999/PROV0998.pdf**](https://www.ihs.gov/provider/includes/themes/newihstheme/display_objects/documents/1990_1999/PROV0998.pdf); PE

Maryland From **1991 to 1993, there were 591 firearm related deaths** (out of 5,210 deaths from all types of injuries) among American Indians and Alaska Natives living in the Indian Health Service Areas.2 While those deaths that were deemed intentional (suicides, homicides, and some of undetermined intent) had lower rates than for the demographic category U.S. All Races, those that were unintentional occurred at a rate almost 3.5 times higher than for the U.S. population as a whole.2 More recent unconfirmed (and disputed) figures indicate that **between 1992 and 1996, homicides on reservation “increased by a shocking 87 percent**.”3 Regardless of the accuracy of that figure, the figures taken as a whole indicate that gun violence is taking a heavy toll in Indian Country. To understand what is happening in Indian communities with regard to gun related deaths, it is necessary to break down the figures as much as possible. This was recently done by the Indian Health Service in the Richard Smith article, cited above. Of the gun related deaths during the studied period, 12.4% were unintentional, **52.5% were suicides, and 33.3% were homicides** (with 1.9% undetermined as to intention). In most cases (64.6%), the type of gun used was not known, so the authors could not generalize about this parameter; but of those that were known, 15.1% were handguns and 20.3% were shotguns or rifles. **Though the overall number of 591 deaths may seem small, one must keep in mind the relatively small size of the American Indian** and Alaska Native **population as a whole**, and, more importantly, the effect of underreporting of deaths and misreporting of race on death certificates. The fact that “Firearmrelated deaths accounted for 11.3% (591/5210) of all injury deaths, making this the second leading cause of injury death after motor vehicles”2 (emphasis added), though, demands attention. The figures in the report by Smith have also been aggregated by sex, and show much higher rates for males than females both overall and within each category of intention and cause of death. **Overall, the report showed that males “accounted for 86.8%** (513/591) **of all firearm-related deaths**.”2 It is noteworthy that, of the intentional deaths, a large number were gun-related: in 53.1% (310/584) of suicides and 36.8% (197/535) of homicides, the means used was a gun.

Handguns kill Indians almost twice as much as they are longguns. **Kopel** Dave Kopel “Native Americans and Gun Violence”; [**http://www.davekopel.org/2A/EncyGunsInAmerSociety/Native-Americans-and-Gun-Violence.htm**](http://www.davekopel.org/2A/EncyGunsInAmerSociety/Native-Americans-and-Gun-Violence.htm); Date Accessed 3/29/16; David B. "Dave" Kopel is an American author, attorney, political science researcher, gun rights advocate, and contributing editor to several publications

**Based on data from 1976 to 1996, 28% of Indian murder victims were killed with a handgun, compared to** 50% of murder victims of other races. **Seventeen percent of Indian murder victims were killed with a long gun**, compared to 11% of other races. (Lawrence A. Greenfield & Steven K. Smith, Bureau of Justice Statistics, American Indians and Crime(U.S. Dept. of Justice: 1999)(NCJ 173386).) **In** both **the United States** and Canada, **Indian** **reservations sometimes have become centers of armed resistance to white control**. For example, during the spring and summer of 1990, Mohawk Indians led by the Mohawk Warrior Society armed themselves with semiautomatic Kalashnikov rifles and other weapons, and seized and held part of the town of Oka, near Montreal, Canada to prevent the expansion of a golf course and housing project onto a pine forest which was Mohawk ancestral land and Pine Tree Cemetery.

Ban solves, it would reduce gun crime on the reservation. **Riley 3:** Angela R. Riley Professor of Law at UCLA; “Indians and Guns”; [**http://georgetownlawjournal.org/files/2012/06/Riley.pdf**](http://georgetownlawjournal.org/files/2012/06/Riley.pdf); 2012 PE

One way for **tribes** to deal with the question of gun regulation in Indian country isto **[can] enact universal** disarmament and criminally **ban** all firearms and **[on] handguns** on the reservation **entirely**. This was essentially the tack taken by Washington D.C. and Chicago before the Supreme Court determined such bans were constitutionally impermissible. But tribes could enact such bans without federal or state constitutional restraints. Of course, those tribes whose own constitutions contain a right to bear arms would have to overcome their own legal barriers to such a law.397 But, absent that potential restriction, **tribes have relative freedom to enact such laws.** And complete **bans may**, for some tribes, **constitute a good cultural, governmental, and institutional fit**. The benefits may be persuasive. Tribes would not have to strain their already limited resources to enact tailored gun laws, put permitting procedures in place, or discern between authorized and unauthorized uses of guns. A complete ban would free the tribe from policing various forms of permissible and impermissible gun use. If the tribe faces a large amount of gun crime committed by tribal members or even other Indians, **a** criminal **prohibition** on guns **may result in reduced reservation gun crime**. **This is particularly so given that most murders in the United States are committed with guns,** and at least triple that number of nonlethal injuries occur each year due to guns.398 And, pursuant to inherent tribal sovereignty, the tribe may also criminally prosecute—up to the limits proscribed by the Indian Civil Rights Act—all Indians who violate the ban. Thus, a tribe that either has few non-Indian residents or few non-Indian reservation visitors may find a criminal gun ban an appealing option.

Adv 2: is Oppression

**Subpoint A**: Indigenous populations were given guns by Westerners to fight their own kind. This way they would be vulnerable to colonization. **Riley 4:** Angela R. Riley Professor of Law at UCLA; “Indians and Guns”; [**http://georgetownlawjournal.org/files/2012/06/Riley.pdf**](http://georgetownlawjournal.org/files/2012/06/Riley.pdf); 2012 PE

Almost from the **first point of contact between Europeans and Indians, Indians have had guns**. They acquired them slowly, at first. **The trade of goods for food** and survival skills **in the New World** sustained colonizers initially.41 Tribes used these resources as a weighty bargaining tool in the early colonial period. Edmund Morgan describes how colonizers at Jamestown in 1609–1610 were starving during a brutal winter and survived only by obtaining corn from the local Indians.42 Thus was born a “symbiotic relations[hip] of interdependence with Indians . . . involving both conflict and cooperation, that formed the matrix of modern American society.”43 **Despite European ambivalence about the exchange of firearms with the Native population, the gun trade grew** from embryonic to thriving **in** only a few **decades**. Guns for trade were readily available and increasingly served as an integral part of market dynamics in early America.44 **“By the beginning of the seventeenth century the gun had become an institution in America and there were definite patterns of procedures in procuring and distributing arms and ammunition.”45 And Indians, of course, wanted guns. Not only was the new technology viewed with “wonder,”46 but a supply of guns and ammunition made it possible for tribes to hunt with more efficiency, producing more furs and pelts with which to trade. Guns thus catapulted the Indian into the market economy, creat[ed]ing a dynamic relationship between Indians and whites that set the stage for the settlement of the West.47 Of course, guns** were also desired because they **allowed Indians to maintain a distinct advantage over** disputes with **enemy tribes**.48 After all, tribes did not have a unified Indian identity prior to contact. To the contrary, **tribes** had formed strategic alliances with other tribal nations but also **engaged in bitter wars over territory and resources**, with hostilities sometimes extending over hundreds of years. With the introduction of firearms, guns in the hands of one tribe gave it a powerful advantage over its historical enemies and, in many instances, increased deadly battles.49 Thus, in the fledgling new world, **guns represented “access to power”** for both Indians and **whites playing a critical role in establishing victors and serving as the weapon of choice for Europeans seeking to conquer indigenous populations.**

**Subpoint B:** The Colt 45 handgun was linked to the murder and colonization of Indians. **Krol:** Debra Utacia Krol, *Weapon used to kill American Indians now Arizona state gun*. Indian Country. May 2nd, 2011.

On April 28, Arizona Governor Jan Brewer signed into law SB 1610, which designates **the Colt .45** caliber **handgun—a weapon that was used to kill many Indians**, including women and children during the Indian Wars of the 19thcentury—to its roster of official artifacts. Ironically, this list includes turquoise, a gem used by many southwestern tribes and acclaimed by Navajos as one of their four sacred stones and the bola tie, a men’s neckware item almost exclusively crafted by Indians. State Representative Albert Hale, D-Window Rock, noted that “The honoring of any gun **is offensive to Native Americans**.” Hale, who served as Navajo Nation president before being elected to the Arizona Legislature, added, “**Guns were used to kill Native Americans and take everything that belonged to them. They were used to put Native Americans on reservations.**” Hale made at least two impassioned speeches on the House floor before the bill came up for the first of two votes. After the first full House vote nixed the bill with less than the 31-vote majority needed, Representative Steve Montengro, R-Litchfield Park, asked for a revote. The bill passed with a vote of 32-25 and three representatives not voting. Five Republicans voted against the measure in the Arizona House, which is dominated by Republicans. The original Colt pistol was patented by Sam Colt in 1836. In the following decades, the name Colt became synonymous with guns in the minds of millions in the U.S. and the world. [Colt’s](http://www.coltsmfg.com/" \t "_blank" \o "Colt)website notes that “During 1845, certain units of the U.S. Dragoon forces and Texas Rangers engaged in fighting the Indians in Texas credited their use of Colt firearms for their great success in defeating Indian forces. U.S. War Department officials reportedly were favorably impressed. “The Army was so impressed that “when the Mexican War began in 1846, Capt. Samuel H. Walker, U.S. Army, traveled east, looked up Sam Colt, and collaborated on the design of a new, more powerful revolver.” The U.S. government subsequently ordered 1,000 of the newly-designed revolvers, which Sam Colt called the "Walker." In 1871, the Colt .45 pistol was developed and in 1872, the larger caliber and deadlier revolver was issued for Army use. **The** deadly little gun has starred in many Hollywood westerns, including the 1950 film “**Colt .45**” and **has become embedded in the nation’s collective memory as the gun that won the West**. There’s even a malt liquor named after the revolver. However, the Colt .45 pistol, the darling of the Indian fighters, also gave the U.S. Army a way to quickly kill and wound Indian people. In just one incident, in the dawn hours of December 28, 1872, a 130-man force from the 5th Cavalry from Fort McDowell and Old Camp Grant and 30 Apache scouts under the command of Capt. William H. Brown conducted a surprise raid on a band of Yavapais hidden in a cave hideout deep in Salt River Canyon. The Yavapais refused to surrender, and the Army shot and crushed to death 100 Yavapai men, women and children in what is today called the "Skeleton Cave Massacre." The Yavapai consider this the most horrible massacre in their history, and newspapers and Army reports of the day describe it as one of the most "terrible battles in Apache history." Reports indicated 75 "hostiles" were killed and 25 captured. In 1925, the Fort McDowell Yavapais retrieved the bones of their massacred relatives and brought them home for burial in a mass grave on the reservation.

Recognition of past injustice to Indians is necessary—it develops dialogue that takes responsibility and shifts the collective identity in a way that initiates the healing process. Tsosie: ’07 (Rebecca, Regents’ Professor at the Sandra Day O’Connor College of Law and the Vice Provost for Inclusion and Community Engagement at Arizona State University, “Acknowledging the Past to Heal the Future: The Role of Reparations for Native Nations,” [**https://apps.law.asu.edu/Repository/2008/06/23043614.pdf**](https://apps.law.asu.edu/Repository/2008/06/23043614.pdf))

Until this speech, it was unheard of for a US government official to talk about US Indian policy as ethnic cleansing. After all, the 'official version' of the United States dispossession of Native nations generally hinges on the justification that because of the 'savage' character of the tribes, they were unable to 'hold property rights' on the same level as civilized people, and thus were 'necessarily' conquered by a more civilized nation. When Assistant Secretary Gover's apology acknowledged the truth of United States/Indian relations, as Indian people have experienced that history and as they continue to experience it, he started an intercultural dialog about acknowledging the past in order to heal the future. Assistant Secretary Gover stressed that by accepting the historical legacy of the BIA as one of racism and inhumanity' the Agency must also accept 'the moral responsibility of putting things right'. Admittedly, this apology came from a federal agency and not from the US government. Yet the apology is historically significant because it represents the first official attempt ever to acknowledge moral responsibility for past wrongs against American Indian people committed by the United States and its agents. The apology thus served several important purposes. First, the apology issued a corrective history to evaluate past conduct. American history books and law books are replete with the justificatory approach to past bad acts toward Native Americans. For years, history books instructed American school children that the savagery of Indian people was responsible for their demise in the face of 'civilization'. This understanding, in turn, has been used by Supreme Court justices and policymakers to justify the denial of Native rights. In Tee-Hit-Ton v. United States, for example, the savage nature of the Tee-Hit-Ton Indians, as a group of itinerant 'hunter gatherers' excuses the United States from any contemporary Constitutional obligation to pay just compensation for the taking of their traditional lands.42 In a different context, Chief Justice Rehnquist's dissent in United States v. Sioux Nation relies on the same rationale to excuse the obligation to pay the Lakota for the taking of treaty-guaranteed lands. Relying on the Oxford History of the American People, Rehnquist alludes to the savage nature of the Lakota people, who 'lived only for the day, recognized no rights of property, robbed or killed anyone if they thought they could get away with it, inflicted cruelty without a qualm, and endured torture without flinching'.43 Rehnquist's conclusion is telling: That there was tragedy, deception, barbarity, and virtually every vice known to man in the 300-year history of the expansion of the original 13 Colonies into a Nation which now encompasses more than three million square miles and 50 states cannot be denied. But in a court opinion, as a historical and not a legal matter, both settler and Indian are entitled to the benefit of the Biblical adjuration: 'Judge not, that ye be not judged'.44 The impact of this history and its popular understanding on Native peoples is profound. Not only does the United States fail to acknowledge the vast and complex nature of the harm that it has wrought on Native peoples, but it appears to place the blame for this harm squarely on Native people themselves. The message to Native people is simple: 'If only you had been more like us, things might have been different for yoU'.45 Second, and building on this historical foundation, Assistant Secretary Gover's apology locates responsibility where it belongs: on the original wrongdoers and those in privity with them. Gover acknowledges that 'the BIA employees of today did not commit these wrongs', but they must 'acknowledge that the institution we serve did'. All employees of the BIA 'accept this inheritance, this legacy of racism and inhumanity. And by accepting this legacy, we accept also the responsibility of putting things right'. In this sense, Assistant Secretary Gover's approach builds on what Peter French and others call 'collective responsibility'. Some scholars locate collective responsibility for past wrongs under a 'benefits theory'. Peter French, however, makes a compelling case for collective responsibility among contemporary governments, groups, and institutions for past wrongs based on the idea of collective ownership of 'public memory'.46 'Public memory casts the past into our present', French argues, 'and well it should because it is our past or what we are jointly committed as a group to being our past. We, as a collective, are the continuation of the projects of our collective's past'. Public memory is the repository of our collective identity, and to the extent that officials, governments, and institutions manage it publicly, it represents our commitment to a collective past for our contemporary group. Thus, Assistant Secretary Gover's remarks are particularly important because they recast the collective memory of the United States and American citizens as a way to acknowledge collective responsibility for past wrongs.47 In that respect, the third important function of Assistant Secretary Gover's apology is to differentiate the impacts of the harms and show the continuing nature of the historical wrongdoing. So, Gover's apology speaks not only to the historical physical harm (e.g. ethnic cleansing) perpetrated on Native peoples, but also the economic harm (destruction of traditional food sources and economies, forced dependency), and the cultural harm (prohibiting Native language and religion). All of these harms resulted from tangible and overt laws and policies of the United States. However, the result of these harms is far more complex: a constellation of emotional and spiritual trauma that extends from generation to generation within Native communities. For example, Assistant Secretary Gover refers to the tragic legacy of the BIA boarding schools and asserts that 'the BIA committed these acts against the children entrusted to its boarding schools, brutalizing them emotionally, psychologically, physically, and spiritually'. Assistant Secretary Gover affirmatively states that 'These wrongs must be acknowledged if the healing is to begin'. And in that sense, the single most important purpose of the apology was to set the process for healing in motion.

Underview:

First, Evaluate an epistemicly modest view of the framework debate. This means that all normative reasons are potentially relevant for evaluation; no contention can be 100% excluded by a value criterion or other argument. ***Key real world decision-making and reciprocity. Overing and Bistagne 14*** *Bob Overing (TOC finalist 2012) and Adam Bistagne (triple-major in Philosophy, Economics and Mathematics, coach for Loyola) “Ethical Modesty Part 1” Premier Debate Today August 31st 2014* [***http://premierdebatetoday.com/2014/08/31/moral-modesty-part-1-by-bob-overing-and-adam-bistagne/***](http://premierdebatetoday.com/2014/08/31/moral-modesty-part-1-by-bob-overing-and-adam-bistagne/)

First, **ethical modesty seems consistent with** everyday **decision-making**. The following example is taken from the dissertation of Andrew Sepielli, now a professor at the University of Toronto**: Suppose that I am deciding whether to drink a cup of coffee. I have a degree of belief of .2 that the coffee is mixed with a deadly poison, and a degree of belief of .8 that it’s perfectly safe. If I act on the hypothesis in which I have the highest credence, I’ll drink the coffee. But this seems like a bad call. A good chance of coffee isn’t worth such a significant risk of death – at least, not if I a**ssign commonsensical values to coffee and death, respectively.[1] It’s hard to argue that confidence gets it right here. **We should think similarly** when deliberating **about** **normative theories**. Employing some social-contract theory, we might think that the United States government should take only Constitutional action; **however, some Constitutional violation might be permissible to protect a large city from a terrorist attack even if we care less about** **utilitarian reasons.**

They Continue:

Bob Overing (TOC finalist 2012) and Adam Bistagne (triple-major in Philosophy, Economics and Mathematics, coach for Loyola) “Ethical Modesty Part 1” Premier Debate Today August 31st 2014 [**http://premierdebatetoday.com/2014/08/31/moral-modesty-part-1-by-bob-overing-and-adam-bistagne/**](http://premierdebatetoday.com/2014/08/31/moral-modesty-part-1-by-bob-overing-and-adam-bistagne/)

That’s all well and good but why should we adopt it in debate? Ethical modesty might remedy a lot of the fairness concerns with frameworks. Necessary/insufficient burdens, skepticism, and **unturnable cases** lose their force when the criterion is no longer all-or-nothing. Those arguments **create reciprocity problems** precisely because they exclude the opponent’s offense. **Under** a frame of **e**thical **m**odesty, **they would not be exclusive; the aff can weigh its offense. Status quo LD framework debate incentivizes finding frameworks that heavily favor one side such that winning the criterion is sufficient to vote. More reasonable, inc**lusive frameworks are crowded out in favor of more unfair ones. For instance, a deontological framework is a predictable, reasonable framework, but ethical confidence makes it much more likely to create structural unfairness. **If the neg defends a narrow** **conception of deontology**, a **strong act/omission distinction, that perfect duties strictly precede imperfect duties, and that any risk of a violation of the standard is sufficient to negate**, **aff offense under the** neg **framework is** effectively **impossible**. These arguments alone are not problematic, however. **If the aff** **can weigh the** advantages of the **plan** **even when the framework debate favors the neg,** then **the aff** still **has** **options**. Modesty makes the strength of the aff impacts matter at the end of the day. Perhaps such a method of evaluation will help the time-pressured 1AR beat back neg layering strategies without resorting to theory arguments.

#### Applies to the role of the ballot just framings of what impacts matter just like ethics. Any reason to prefer it on framework would also apply.

#### Second, The judge should privilege probability in your decision calculus. Debate’s current race to hyperbole reduces our ability to discuss and compare actual impacts that aren’t hyperbole. As a critic you must be more skeptical of “risk of a link” logic and more willing to dismiss ridiculously improbable scenarios. **Odekirk 10** Scott, debate coach 8/6/10, Impact Hyperbole: A Dilemma of Contemporary Debate Practice, http://puttingthekindebate.com/2010/08/26/impact-hyperbole-a-dilemma-of-contemporary-debate-practice/

It seems as though debate is stuck in a loop of nuclear wars and no value to life. We have a difficult time of conceiving of a terminal impact that doesn’t end in some ultimate destruction. Without terminal impacts such as nuclear war or the root of all claims, we have a tough time comparing and weighing impacts. Our arguments for spill over connect even the most improbable of scenarios. Take for example our Africa war arguments. Given that Africa, as a continent, largely lack nuclear capabilities the chances of a conflict escalating in this area of the world are slim at best, but still debate returns to evidence written by The Rabid Tiger Project. In fact if you google “http://www.rabidtigers.com/rtn/newsletterv2n9.html”, you will find the great majority of the hits are debate links. This particular scenario is largely a debate creation and the scholarly world around it seems to have largely dismissed this single article as lacking credibility. Even in a debate context, this particular evidence is difficult to take seriously with a big debate on the line. Beyond the most terrible of impact evidence though, a world of equally terrifying scenario’s exist. According to the debate community, we face nuclear war because of any of the following: economic collapse in any number of countries across the globe, a lack of US leadership, use of US hard power (pre-emption, imperialist expansion, etc), India-Pakistan conflict, Middle East escalation, Iran nuclearization, capitalism, the lack of capitalism, patriarchy, racism, nuclear terrorism, US response to a terrorist attack, Taiwan independence, Chinese collapse, Russian aggression, Russian collapse, or accidental launch of nuclear weapons. That’s a short list and I am certain it doesn’t contain all the ways a nuclear war could break out as described in debate scenarios. If one listened closely to the debate community, a sense of inevitable doom would most certainly replace any belief in a long life. As much as it would seem I am poking fun at the policy debate community, kritik debaters [are] caught in the same loop. External impacts to our criticisms are often extinction claims. A great number of K’s end in root of all claims or no value to life claims. In a very similar pattern, our kritiky impacts reflect the same sense of terminal destruction we find in the policy community we often subject to kritik. Possibly living under the sword of Damocles has had more impact on our psyche than Americans give it credit. Possibly living in the information age has resulted in the ability to read any old nut as great impact evidence without the effective critical thinking skills to discern who or what qualifies as credible. Possibly debate as a community lacks a language by which to communicate the dangers of racism, sexism, homophobia, economic justice, poor foreign relations, or terrorism. Is this tumble into impact hyperbole a problem? Well, it definitely does not reflect the sort of care a scholar takes in his/her work. It lacks the humility of limited claims backed only with probable warrants. Although there are some scenarios which could escalate into extinction or which do explain important pre-conditions for violence or meaningful living, these scenarios are much more limited than the debate community gives credence. In theory, the repetition of these hyperboles naturalize them or, at least, make them appear natural/normal. Our community convinces itself the impacts we discuss are credible threats. We are a population believing in an exaggerated reality – a hyper real if you will. Before we give ourselves the credit of knowing that our impacts are exaggerated, let us consider those of us who move on to work in think tanks or write law reviews who assess the threats of nuclear wars to the United States. In fact, this honor, think tank writer, is given out at the NDT every year. Perhaps a better question is, what is the value of our current impact debate? We don’t really help avoid nuclear wars or prevent violence by making every possible interaction into a discussion of the potential for either. If all of these scenarios result in gruesome ending for life on Earth, then the issues become very muddled. The result may be a sort of nihilism which in its conclusion is more Darwinian than Nietzsche. If we decide there is an impact hyperbole problem, what then is the alternative? Of course, the literature is our guide to a sensible form of impact debate, but we wouldn’t be in this predicament without literature. No debater asserts these impacts; they read cards. Cards = Truth Currency. A solution is a better internal link debate. How do the scenarios unfold? To examine the internals means examining all the many different ways the world would intervene in order to prevent the terminal impact from occurring. Debate judges can only work with what debaters give them, but we too must be willing to tell a team their impacts are overblown when this argument is part of the debate. Giving a debate ballot to the team who finds a 1% risk of extinction is a silly judging paradigm at best. At worst, it reflects a lack of critical thinking on the part of a debate critic. I am most definitely not saying critics should intervene and make impact arguments that are not in the debate, but giving [give] more weight to impact defense is an important start to reign in our impact hyperbole.

Third, I advocate policymaking as a way to deconstruct the problems of the oppressed. I recognize my male and white privilege , but our discussion of good and bad policies for people still is ultimately valuable. Debating about policies is key to solving real-world oppression**. Torgerson**:Douglas Torgerson, professor of poli sci, 1999 “The promise of Green Politics” p. 154-6

One rationale for Arendt’s emphasis on the intrinsic value of politics is that this value has been so neglected by modernity that politics itself is threatened. Without a celebration of the intrinsic value of politics, neither functional nor constitutive political activity has any apparent rationale for continuing once its ends have been achieved. Functional politics might well be replaced by a technocratic management of advanced industrial society. A constitutive politics intent on social transformation might well be eclipsed by the coordinated direction of a cohesive social movement. In neither case would any need be left for what Arendt takes to be the essence of politics, there would be no need for debate. Green authoritarianism, following in the footsteps of Hobbes, has been all too ready to reduce politics to governance. Similarly, proponents of deep ecology, usually vague about politics, at least have been able to recognize totalitarian dangers in a position that disparages public opinion in favor of objective management? Any attempt to plot a comprehensive strategy for a cohesive green movement, moreover, ultimately has to adopt a no- nonsense posture while erecting clear standards by which to identify and excommunicate the enemy that is within. Green politics from its inception, however, has challenged the officialdom of advanced industrial society by invoking the cultural idiom of the carnivalesque. Although tempted by visions of tragic heroism, as we saw in chapter , green politics has also celebrated the irreverence of the comic, of a world turned upside down to crown the fool. In a context of political the ater, instrumentalism is often attenuated, at least momentarily displaced by a joy of performance. The comic dimension of political action can also be more than episodic. The image of the Lilliputians tying up the giant suggests well the strength and flexibility of a decentered constitutive politics. In a functional context, green politics offers its own technology of foolish ness in response to the dysfunctions of industrialism, even to the point of exceeding the comfortable limits of a so-called responsible foolishness. Highlighting the comic, these tendencies within green politics begin to suggest an intrinsic value to politics. To the extent that this value is recognized, politics is inimical to authoritarianism and offers a poison pill to the totalitarian propensities of an industrialized mass society. To value political action for its own sake, in other words, at least has the significant extrinsic value of defending against the antipolitical inclinations of modernity. But what is the intrinsic value of politics? Arendt would locate this value in the virtuosity of political action, particularly as displayed in debate. Although political debate surely has extrinsic value, this does not exhaust its value. Debate is a language game that, to be played well, cannot simply be instrumentalized for the services it can render but must also be played for its own sake. Any game pressed into the service of external goals tends to lose its playful quality; it ceases to be fun. It was in reflecting on the social movements of the 1960s that Arendt proclaimed the discovery that political action was fun. It was fun even though it sprang from moral purposes and even though political debate also enhanced the rationality of opinion formation. Arendt’s affirmation of the apparently frivolous value of fun sharply contrasts with her earlier celebration of glory, even of public happiness. The affirmation nonetheless suggests a particular promise of politics, a promise especially contained in the comic dimension of green politics.

Education through participation in debates about policies is essential to check manipulations of the government by powerful private interests. Lutz: Donald S Lutz, 2k (Political Theory and Partisan Politics, pg 36-7)

The position argued here is that to the extent such a discussion between political theorists and politicians does not take place we damage the prospects for marrying justice with power. Since the hope of uniting justice with power was the reason for creating political philosophy in the first place, political theorists need to pursue the dialogue as part of what justifies their intellectual project. Politics is the realm of power. More specifically, it is the realm where force and violence are replaced by debates and discussion about how to implement power. Without the meaningful injection of considerations of justice, politics tends to become[s] discourse by the most powerful about how to implement their preferred regime. Although constitutionalism tends to be disparaged by contemporary political science, a constitution is the very place where justice and power are married. Aristotle first taught us that a constitution must be matched to the realities of the political system – the character, hopes, fears, needs and environment of the people – which requires that constitutionalism be addressed by men and women practiced in the art of the possible. Aristotle also taught us that a constitutionthe *politeia*, or plan for a way of lifeshould address the improvement of people toward the best life possible which requires that constitutionalism be addressed by political theorists who can hold out a vision of justice and the means for advancing toward it. The conversation between politician and political theorist stands at the center of their respective callings, and a constitution, even though it reflects only a part of the reality of a political system, has a special status in this central conversion.. Although the focus of this chapter is on a direct conversation between theorist and politician, there is an important, indirect aspect of the conversation that should not be overlooked – classroom teaching. Too often the conversation between politician and political theorist is described in terms of a direct one between philosophers and those holding power. Overlooked is the central need to educate as many young people as possible. Since it is difficult to predict who will, in fact, hold power, and because the various peoples who take seriously the marriage of justice with power are overwhelmingly committed to a non-elitist, broad involvement of the population, we should not overlook or minimize our importance as teachers of the many. Political leaders drawn from a people who do not understand what is at stake are neither inclined nor equipped to join the conversation. **As we teach, we converse with future leaders.** Perhaps not everyone who teaches political theory has had the same experience, but of the more than eight thousand students I have taught, I know of at least forty nine who later held a major elective office, and a least eighty more who have become important political activists. This comes down to about five students per teaching year , and I could not have predicted which five it would be. The indeterminate future of any given student is one argument against directing our efforts at civic education forward the few, best students. A constitutional perspective suggests not only that those in power rely upon support and direction from a broad segment of the public, but also that reliance upon the successful civic education of the elite is not very effective, by itself for marrying justice with power in the long run

Our interpretation promotes a non-exclusionary political ethic that solves your turn—the whole point of citizen policy debate is that anyone can engage it. Connolly: William Connolly 2k (Political Theory and Partisan Politics pg 168-9)

This is, then, a political ethic, an ethic in which politics play a constitutive role and a politics in which ethics plays a constitutive role. It does not, of course, provide an accurate description of the contemporary condition in America, with its steep inequalities and large classes of people closed out of effective participation in political life. It is critical ideal. As such, it is perhaps more appropriate to the times in which we live than the Rawlsian model it rewrites. It is presented not as the standard to which every ethic must appeal but as an ethical sensibility able to enter into critical dialogue and selective collaboration with a variety of other perspectives. The very indispensability and contestability of contending onto-theo and onto-non-theistic stances in the late-modern world supports the case for cultivating relations of agonistic respect and selective collaboration between multiple, overlapping constituencies, each of which draws pertinent aspects of its fundamental doctrine into public life when, as so very often happens he occasion demands it. And several of which also invoke the essential contestability of the ethical sources they honor the most. Out of these diverse lines of connection across multiple lines of difference, a politics of creative coalitions might even be forge to enable action in concert through the state to support the economic and cultural preconditions of justice and pluralism

Citizens who think of themselves as policymakers is key to the sustainability of liberal democratic systems. Rawls: John **Rawls**, The Law of Peoples, 19**99**, p. 56-57

To answer this question, we say that, ideally, citizens are to think of themselves as if they were legislators and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think it most reasonable to enact. When firm and widespread, the disposition of citizens to view themselves as ideal legislators, and to repudiate government officialsand candidates for public officewho violate public reason, forms part of the political and social basis of liberal democracy and is vital for its enduring strength and vigor. Thus in domestic society citizens fulfill their duty of civility and support the idea of public reason, while doing what they can to hold government officials to it. This duty, like other political rights and duties, is an intrinsically moral duty. I emphasize that it is not a legal duty, for in that case it would be incompatible with freedom of speech. Similarly, the ideal of the public reason of free and equal peoples is realized, or satisfied, whenever chief executives and legislators, and other government officials, as well as candidates for public office, act from and follow the principles of the Law of Peoples and explain to other peoples their reasons for pursuing or revising a people’s foreign policy and affairs of state that involve other societies. As for private citizens, we say, as before, that ideally citizens are to think of themselves as if they were executives and legislators and ask themselves what foreign policy supported by what considerations they would think it most reasonable to advance. Once again, when firm and widespread, the disposition of citizens to view themselves as ideal executives and legislators, and to repudiate government officials and candidates for public office who violate the public reason of free and equal peoples, is part of the political and social basis of peace and understanding among peoples.