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

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

Army Officer School ‘04

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

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

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

2. “USFG should” means the debate is solely about a policy established by governmental means

Ericson ‘03

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

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

B. They claim to win the debate for reasons other than the desirability of topical action

C. You should vote negative:

Decisionmaking—debate over a controversial point of action creates argumentative stasis—that’s key to avoid a devolution of debate into competing truth claims

Steinberg, lecturer of communication studies – University of Miami, and Freeley, Boston based attorney who focuses on criminal, personal injury and civil rights law, ‘8

(David L. and Austin J., Argumentation and Debate: Critical Thinking for Reasoned Decision Making p. 45)

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.

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

Steinberg, lecturer of communication studies – University of Miami, and Freeley, Boston based attorney who focuses on criminal, personal injury and civil rights law, ‘8

(David L. and Austin J., Argumentation and Debate: Critical Thinking for Reasoned Decision Making p. 9-10)

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.

Dialogue. Debate’s critical axis is a form of dialogic communication within a confined game space.

Unbridled affirmation outside the game space makes research impossible and destroys dialogue in debate

Hanghoj 8

http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf

Thorkild Hanghøj, Copenhagen, 2008

Since this PhD project began in 2004, the present author has been affiliated with DREAM (Danish

Research Centre on Education and Advanced Media Materials), which is located at the Institute of

Literature, Media and Cultural Studies at the University of Southern Denmark. Research visits have

taken place at the Centre for Learning, Knowledge, and Interactive Technologies (L-KIT), the

Institute of Education at the University of Bristol and the institute formerly known as Learning Lab

Denmark at the School of Education, University of Aarhus, where I currently work as an assistant

professor.

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).

Dialogue is critical to affirming any value—shutting down deliberation devolves into totalitarianism and reinscribes oppression

Morson 4

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

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

Bakhtin viewed the whole process of “ideological” (in the sense of ideas and values, however unsystematic) development as an endless dialogue. As teachers, we find it difficult to avoid a voice of authority, however much we may think of ours as the rebel’s voice, because our rebelliousness against society at large speaks in the authoritative voice of our subculture.We speak the language and thoughts of academic educators, even when we imagine we are speaking in no jargon at all, and that jargon, inaudible to us, sounds with all the overtones of authority to our students. We are so prone to think of ourselves as fighting oppression that it takes some work to realize that we ourselves may be felt as oppressive and overbearing, and that our own voice may provoke the same reactions that we feel when we hear an authoritative voice with which we disagree. So it is often helpful to think back on the great authoritative oppressors and reconstruct their self-image: helpful, but often painful. I remember, many years ago, when, as a recent student rebel and activist, I taught a course on “The Theme of the Rebel” and discovered, to my considerable chagrin, that many of the great rebels of history were the very same people as the great oppressors. There is a famous exchange between Erasmus and Luther, who hoped to bring the great Dutch humanist over to the Reformation, but Erasmus kept asking Luther how he could be so certain of so many doctrinal points. We must accept a few things to be Christians at all, Erasmus wrote, but surely beyond that there must be room for us highly fallible beings to disagree. Luther would have none of such tentativeness. He knew, he was sure. The Protestant rebels were, for a while, far more intolerant than their orthodox opponents. Often enough, the oppressors are the ones who present themselves and really think of themselves as liberators. Certainty that one knows the root cause of evil: isn’t that itself often the root cause? We know from Tsar Ivan the Terrible’s letters denouncing Prince Kurbsky, a general who escaped to Poland, that Ivan saw himself as someone who had been oppressed by noblemen as a child and pictured himself as the great rebel against traditional authority when he killed masses of people or destroyed whole towns. There is something in the nature of maximal rebellion against authority that produces ever greater intolerance, unless one is very careful. For the skills of fighting or refuting an oppressive power are not those of openness, self-skepticism, or real dialogue. In preparing for my course, I remember my dismay at reading Hitler’s Mein Kampf and discovering that his self-consciousness was precisely that of the rebel speaking in the name of oppressed Germans, and that much of his amazing appeal – otherwise so inexplicable – was to the German sense that they were rebelling victims. In our time, the Serbian Communist and nationalist leader Slobodan Milosevic exploited much the same appeal. Bakhtin surely knew that Communist totalitarianism, the Gulag, and the unprecedented censorship were constructed by rebels who had come to power. His favorite writer, Dostoevsky, used to emphasize that the worst oppression comes from those who, with the rebellious psychology of “the insulted and humiliated,” have seized power – unless they have somehow cultivated the value of dialogue, as Lenin surely had not, but which Eva, in the essay by Knoeller about teaching The Autobiography of Malcolm X, surely had. Rebels often make the worst tyrants because their word, the voice they hear in their consciousness, has borrowed something crucial from the authoritative word it opposed, and perhaps exaggerated it: the aura of righteous authority. If one’s ideological becoming is understood as a struggle in which one has at last achieved the truth, one is likely to want to impose that truth with maximal authority; and rebels of the next generation may proceed in much the same way, in an ongoing spiral of intolerance.

Decisionmaking skills and engagement with the state energy apparatus prevents energy technocracy and actualizes radical politics

Hager, professor of political science – Bryn Mawr College, ‘92

(Carol J., “Democratizing Technology: Citizen & State in West German Energy Politics, 1974-1990” *Polity*, Vol. 25, No. 1, p. 45-70)

During this phase, the citizen initiative attempted to overcome its defensive posture and **implement an alternative politics.** The strategy of legal and technical challenge might delay or even prevent plant construction, but it would not by itself accomplish the broader goal on the legitimation dimension, i.e., democratization. Indeed, it worked against broad participation. The activists had to find a viable means of achieving change. Citizens had proved they could contribute to a **substantive policy discussion.** Now, some activists turned to the parliamentary arena as a possible forum for an energy dialogue. Until now, parliament had been conspicuously absent as a relevant policy maker, but if parliament could be reshaped and activated, citizens would have a forum in which to address the broad questions of policy-making goals and forms. They would also have an **institutional lever** with which to pry apart the bureaucracy and utility. None of the established political parties could offer an alternative program. Thus, local activists met to discuss forming their own voting list.

These discussions provoked internal dissent. Many citizen initiative members objected to the idea of forming a political party. If the problem lay in the role of parliament itself, another political party would not solve it. On the contrary, parliamentary participation was likely to destroy what political innovations the extraparliamentary movement had made. Others argued that a political party would give the movement an institutional platform from which to introduce some of the grassroots democratic political forms the groups had developed. Founding a party as the parliamentary arm of the citizen movement would allow these groups to play an active, critical role in institutionalized politics, participating in the policy debates while retaining their outside perspective. Despite the disagreements, the Alternative List for Democracy and Environmental Protection Berlin (AL) was formed in 1978 and first won seats in the Land parliament with 7.2 percent of the vote in 1981.43 The founders of the AL were encouraged by the success of newly formed local green parties in Lower Saxony and Hamburg,44 whose evolution had been very similar to that of the West Berlin citizen move-ment. Throughout the FRG, unpopular administrative decisions affect-ing local environments, generally in the form of state-sponsored indus-trial projects, prompted the development of the citizen initiative and ecology movements. The groups in turn focused constant attention on state planning "errors," calling into question not only the decisions themselves, but also the conventional forms of political decision making that produced them.45 Disgruntled citizens increasingly aimed their critique at the established political parties, in particular the federal SPD/ FDP coalition, which seemed unable to cope with the economic, social, and political problems of the 1970s. Fanned by publications such as the Club of Rome's report, "The Limits to Growth," the view spread among activists that the crisis phenomena were not merely a passing phase, but indicated instead "a long-term structural crisis, whose cause lies in the industrial-technocratic growth society itself."46 As they broadened their critique to include the political **system as a whole**, many grassroots groups found the extraparliamentary arena too restrictive. Like many in the West Berlin group, they reasoned that the necessary change would require a degree of political restructuring that could only be accomplished through their direct participation in parliamentary politics. Green/alternative parties and voting lists sprang up nationwide and began to win seats in local assemblies. The West Berlin Alternative List saw itself not as a party, but as the parliamentary arm of the citizen initiative movement. One member explains: "the starting point for alternative electoral participation was simply the notion of achieving a greater audience for [our] own ideas and thus to work in support of the extraparliamentary movements and initia-tives,"47 including non-environmentally oriented groups. The AL wanted to avoid developing structures and functions autonomous from the citizen initiative movement. Members adhered to a list of principles, such as rotation and the imperative mandate, designed to keep parliamentarians attached to the grassroots. Although their insistence on grassroots democracy often resulted in interminable heated discussions, the participants recognized the importance of experimenting with new forms of decision making, of not succumbing to the same hierarchical forms they were challenging. Some argued that the proper role of citizen initiative groups was not to represent the public in government, but to mobilize other citizens to **participate directly in politics themselves**; self-determination was the aim of their activity.48

Once in parliament, the AL proposed establishment of a temporary parliamentary commission to study energy policy, which for the first time would draw all concerned participants together in a discussion of both short-term choices and long-term goals of energy policy. With help from the SPD faction, which had been forced into the opposition by its defeat in the 1981 elections, two such commissions were created, one in 1982-83 and the other in 1984-85.49 These commissions gave the citizen activists the forum they sought to push for modernization and technical innovation in energy policy.

Although it had scaled down the proposed new plant, the utility had produced no plan to upgrade its older, more polluting facilities or to install desulfurization devices. With prodding from the energy commission, Land and utility experts began to formulate such a plan, as did the citizen initiative. By exposing administrative failings in a public setting, and **by producing a** modernization **plan itself**, the combined citizen initiative and AL forced bureaucratic authorities to push the utility for improvements. They also forced the authorities to consider different technological solutions to West Berlin's energy and environmental problems. In this way, the activists served as technological innovators. In 1983, the first energy commission submitted a list of recommendations to the Land parliament which reflected the influence of the citizen protest movement. It emphasized goals of demand reduction and efficiency, noted the value of expanded citizen participation and urged authorities to "investigate more closely the positive role citizen participation can play in achieving policy goals."50 The second energy commission was created in 1984 to discuss the possibilities for modernization and shutdown of old plants and use of new, environmentally friendlier and cheaper technologies for electricity and heat generation. Its recommendations strengthened those of the first commission.51 Despite the non-binding nature of the commissions' recommendations, the public discussion of energy policy motivated policy makers to take stronger positions in favor of environmental protection.

III. Conclusion

The West Berlin energy project eventually cleared all planning hurdles, and construction began in the early 1980s. The new plant now conforms to the increasingly stringent environmental protection requirements of the law. The project was delayed, scaled down from 1200 to 600 MW, moved to a neutral location and, unlike other BEWAG plants, equipped with modern desulfurization devices. That the new plant, which opened in winter 1988-89, is the technologically most advanced and environmen-tally sound of BEWAG's plants is due entirely to the long legal battle with the citizen initiative group, during which nearly every aspect of the original plans was changed. In addition, through the efforts of the Alter-native List (AL) in parliament, the Land government and BEWAG formulated a long sought modernization and environmental protection plan for all of the city's plants. The AL prompted the other parliamentary parties to take pollution control seriously. Throughout the FRG, energy politics evolved in a similar fashion. As Habermas claimed, underlying the **objections against particular projects** was a reaction against the administrative-economic system in general.

One author, for example, describes the emergence of two-dimensional protest against nuclear energy: The resistance against a concrete project became understood simul-taneously as resistance against the entire atomic program. Questions of energy planning, of economic growth, of understanding of democracy entered the picture. . . . Besides concern for human health, for security of conditions for human existence and protec-tion of nature arose critique of what was perceived as undemocratic planning, the "shock" of the delayed public announcement of pro-ject plans and the fear of political decision errors that would aggra-vate the problem.52 This passage supports a West Berliner's statement that the citizen initiative began with a project critique and arrived at *Systemkritik*.53 I have labeled these two aspects of the problem the public policy and legitima-tion dimensions. In the course of these conflicts, the legitimation dimen-sion emergd as the more important and in many ways the more prob-lematic.

Parliamentary Politics

In the 1970s, energy politics began to develop in the direction Offe de-scribed, with bureaucrats and protesters avoiding the parliamentary channels through which they should interact. The citizen groups them-selves, however, have to a degree reversed the slide into irrelevance of parliamentary politics. Grassroots groups overcame their defensive posture enough to begin to **formulate an alternative politics**, based upon concepts such as decision making through mutual understanding rather than technical criteria or bargaining. This new politics required new modes of interaction which the old corporatist or pluralist forms could not provide. Through the formation of green/alternative parties and voting lists and through new parliamentary commissions such as the two described in the case study, some members of grassroots groups attempted to both operate within the political system and fundamentally change it, to restore the link between bureaucracy and citizenry.

Parliamentary politics was partially revived in the eyes of West German grassroots groups as a legitimate realm of citizen participation, an outcome the theory would not predict. It is not clear, however, that strengthening the parliamentary system would be a desirable outcome for everyone. Many remain skeptical that institutions that operate as part of the "system" can offer the kind of substantive participation that grass-roots groups want. The constant tension between institutionalized politics and grassroots action emerged clearly in the recent internal debate between "fundamentalist" and "realist" wings of the Greens. Fundis wanted to keep a firm footing outside the realm of institutionalized politics. They refused to bargain with the more established parties or to join coalition governments. Realos favored participating in institutionalized politics while pressing their grassroots agenda. Only this way, they claimed, would they have a chance to implement at least some parts of their program.

This internal debate, which has never been resolved, can be interpreted in different ways. On one hand, the tension limits the appeal of green and alternative parties to the broader public, as the Greens' poor showing in the December 1990 all-German elections attests. The failure to come to agreement on basic issues can be viewed as a hazard of grass-roots democracy. The Greens, like the West Berlin citizen initiative, are opposed in principle to forcing one faction to give way to another. Disunity thus persists within the group. **On the other hand**, the tension can be understood not as a failure, but as a kind of success: grassroots politics has not been absorbed into the bureaucratized system; it retains its critical dimension, both in relation to the political system and within the groups themselves. The **lively debate** stimulated by grassroots groups and parties **keeps questions of democracy on the public agenda.**

Technical Debate

In West Berlin, the two-dimensionality of the energy issue forced citizen activists to become both participants in and critics of the policy process. In order to defeat the plant, **activists engaged in technical debate.** They won several decisions in favor of environmental protection, often **proving to be more informed than bureaucratic experts** themselves. The case study demonstrates that grassroots groups, far from impeding techno-logical advancement, can actually serve as technological innovators.

The activists' role as technical experts, while it helped them achieve some success on the policy dimension, had mixed results on the legitimation dimension. On one hand, it helped them to **challenge the legitimacy of technocratic policy making**. They turned back the Land government's attempts to displace political problems by formulating them in technical terms.54 By demonstrating the fallibility of the technical arguments, activists forced authorities to acknowledge that energy demand was a political variable, whose value at any one point was as much influenced by the choices of policy makers as by independent technical criteria.

Submission to the form and language of technical debate, however, weakened activists' attempts to introduce an alternative, goal-oriented form of decision making into the political system. Those wishing to par-ticipate in energy politics on a long-term basis have had to accede to the language of bureaucratic discussion, if not the legitimacy of bureaucratic authorities. They have helped break down bureaucratic authority but have not yet offered a viable long-term alternative to bureaucracy. In the tension between form and language, goals and procedure, the legitima-tion issue persists. At the very least, however, grassroots action challenges critical theory's notion that technical discussion is inimical to democratic politics.55 Citizen groups have raised the possibility of a dialogue that is both technically sophisticated and democratic.

In sum, although the legitimation problems which gave rise to grass-roots protest have not been resolved, citizen action has worked to counter the marginalization of parliamentary politics and the technocratic character of policy debate that Offe and Habermas identify. The West Berlin case suggests that the solutions to current legitimation problems may not require total repudiation of those things previously associated with technocracy.56

In Berlin, the citizen initiative and AL continue to search for new, more legitimate forms of organization consistent with their principles. No permanent Land parliamentary body exists to coordinate and con-solidate energy policy making.57 In the 1989 Land elections, the CDU/ FDP coalition was defeated, and the AL formed a governing coalition with the SPD. In late 1990, however, the AL withdrew from the coali-tion. It remains to be seen whether the AL will remain an effective vehi-cle for grassroots concerns, and whether the citizenry itself, now includ-ing the former East Berliners, will remain active enough to give the AL direction as united Berlin faces the formidable challenges of the 1990s. On the policy dimension, grassroots groups achieved some success. On the legitimation dimension, it is difficult to judge the results of grass-roots activism by normal standards of efficacy or success. Activists have certainly not radically restructured politics. They agree that democracy is desirable, but troublesome questions persist about the degree to which those processes that are now bureaucratically organized can and should be restructured, where grassroots democracy is possible and where bureaucracy is necessary in order to get things done. In other words, grassroots groups have tried to remedy the Weberian problem of the marginalization of politics, but it is not yet clear what the boundaries of the political realm should be. It is, however, the act of calling existing boundaries into question that keeps democracy vital. In raising alternative possibilities and encouraging citizens to take an active, critical role in their own governance, the **contribution of grassroots** environmental **groups has been significant.** As Melucci states for new social movements in general, these groups mount a "symbolic" challenge by proposing "a different way of perceiving and naming the world."58 Rochon concurs for the case of the West German peace movement, noting that its effect on the public discussion of secur-ity issues **has been tremendous**.59 The effects of the legitimation issue in the FRG are evident in increased citizen interest in areas formerly left to technical experts. Citizens have formed nationwide associations of environmental and other grassroots groups as well as alternative and green parties at all levels of government. The level of information within the groups is generally quite high, and their participation, especially in local politics, has raised the awareness and engagement of the general populace noticeably.60 **Policy concessions** and new legal provisions for citizen participation **have not quelled grassroots action.** The attempts of the established political parties to coopt "green" issues have also met with limited success. Even green parties themselves have not tapped the full potential of public support for these issues. The persistence of legitima-tion concerns, along with the growth of a culture of informed political activism, will ensure that the search continues for a space for a delibera-tive politics in modern technological society.61

#### Unconditional environmental justice destroys policy priorities, tanking any risk analysis because they try to INCLUDE all viewpoints WITHOUT LIMITS

Foreman 98

Christopher Foreman is a nonresident senior fellow in Governance Studies. Since 2000, he has also been a professor and director of the social policy program at the University of Maryland’s School of Public Policy. His research focuses on the politics of health, race, environmental regulation, government reform, and domestic social policy

Ph.D. (1980), A.M. (1977), A.B. (1974), Harvard University

The Promise and Peril of Environmental Justice

Conceptual Drawbacks of Environmental Justice From a rationalizing perspective, a major problem with the environmental justice version of the democratizing critique is that, like ecopopulism more generally, it threatens to worsen the problem of environmental policy's missing priorities. As Walter Rosenbaum elaborates: like the man who mounted his horse and galloped off in all directions, the EPA has no constant course. With responsibility for administering nine separate statutes and parts of four others, the EPA has no clearly mandated priorities, no way of allocating scarce resources among different statutes or among programs within a single law. Nor does the EPA have a congressional charter, common to most federal departments and agencies, defining its broad organizational mission and priorities.... Congress has shown little inclination to provide the EPA with a charter or mandated priorities, in good part because the debate sure to arise on the relative merit and urgency of different environmental problems is an invitation to a political bloodletting most legislators would gladly avoid. Intense controversy would be likely among states, partisans of different ecological issues, and regulated interests over which problems to emphasize; the resulting political brawl would upset existing policy coalitions that themselves were fashioned with great difficulty. Moreover, setting priorities invites a prolonged, bitter debate over an intensely emotional issue: should the primary objective of environmental protection be to reduce public risks associated with environmental degradation as much as seems practical or—as many environmentalists fervently believe—is the goal to eliminate all significant forms of pollution altogether?18 Environmental justice inevitably enlarges this challenge of missing priorities, and for similar reasons. As noted earlier, the movement is a delicate coalition of local and ethnic concerns unable to narrow its grievances for fear of a similar "political bloodletting."1? Overt de-emphasis or removal of any issue or claim would prompt the affected coalition members (for example, groups, communities, or tribes) to disrupt or depart it. And chances are they would not leave quietly but with evident resentment and perhaps accusatory rhetoric directed at the persons and organizations remaining. Real priority-setting runs contrary to radical egalitarian value premises, and no one (perhaps least of all a strong democratizer) wants to be deemed a victimizer. Therefore movement rhetoric argues that no community should be harmed and that all community concerns and grievances deserve redress. Scholar-activist Robert Bullard proposes that "the solution to unequal protection lies in the realm of environmental justice for all Americans. No community, rich or poor, black or white, should be allowed to become a 'sacrifice zone."20 When pressed about the need for environmental risk priorities, and about how to incorporate environmental justice into priority setting, Bullard's answer is a vague plea for nondiscrimination, along with a barely more specific call for a "federal 'fair environmental protection act™ that would transform "protection from a privilege to a right."21 Bullard's position is fanciful and self-contradictory, but extremely telling. He argues essentially that the way to establish environmental priorities is precisely by guaranteeing that such priorities are impossible to implement. This is symptomatic of a movement for which untrammeled citizen voice and overall social equity are cardinal values. Bullard's position also epitomizes the desire of movement intellectuals to avoid speaking difficult truths (at least in public) to their allies and constituents. Ironically, in matters of health and risk, environmental justice poses a potentially serious, if generally unrecognized, danger to the minority and low-income communities it aspires to help. By discouraging citizens from thinking in terms of health and risk priorities (that is, by taking the position, in effect, that every chemical or site against which community outrage can be generated is equally hazardous), environmental justice can deflect attention from serious hazards to less serious or perhaps trivial ones.

## case

#### Siting decisions based on non-racial factors – best evidence

Kevin 97

Mr. Kevin is an environmental analyst at the Ernest Orlando Lawrence Berkeley National Laboratory in Berkeley, California. J.D., Golden Gate University Law School (1986); Doctoral Candidacy, University of California, Berkeley (1982); M.A., University of California, Berkeley (1975); B.A., University of California, Santa Cruz (1973). Mr. Kevin was an analyst with the U.S. Congressional Office of Technology Assessment from 1979 to 1987, and worked with private sector environmental consulting firms from 1987 to 1996. 8 Vill. Envtl. L.J. 121 "ENVIRONMENTAL RACISM" AND LOCALLY UNDESIRABLE LAND USES: A CRITIQUE OF ENVIRONMENTAL JUSTICE THEORIES AND REMEDIES

Nondiscriminatory factors account for disparate results in the great majority of formal siting decisions. Some hazardous waste landfill sites which are often cited as examples of environmental racism, such as Emelle, Alabama and Warren County, North Carolina, may be technically superior to alternate sites. n92 For example, when Chemical Waste Management made its decision to site a hazardous waste landfill, Emelle was the only county east of the Mississippi River evaluated by EPA and listed as one of the ten most desirable counties for a landfill. n93 Factors accounting for its desirability as a landfill included the sparse population surrounding the site, reliable access to the site, and arid temperature in the site's location. n94 Most importantly, Emelle was underlain by dense natural chalk forming a good barrier between waste disposal activities and aquifers. n95 Other factors being equal, and independent of racism, siting proponents seek out areas where the costs of siting are low relative to comparable areas. n96 Minority communities are often in areas [\*140] with lower land values. n97 In addition, although the assertion that "no one likes to live near a waste site" n98 is probably correct, in some instances there has not been strong opposition from minority communities that have been or would be affected by a LULU siting. n99 It is reasonable to conclude that lack of opposition has resulted from the same factors that have been cited in the cases of white communities which have solicited LULUs; as well as potential problems, LULUs can bring potential benefits to communities in jobs, revenues and direct provision of social services. n100 In some cases, not only has there been a lack of local opposition to LULU sitings, but community leaders have actively sought out or welcomed such sitings. For example, the Campo Band of Mission Indians has supported the construction of a solid waste landfill on reservation land in San Diego County, California. n101 Permitting and environmental standards for the landfill would meet, at a minimum, applicable EPA standards. n102 The landfill [\*141] would bring great economic benefits to the Campo Band. n103 Tribal sources estimated that the landfill would directly create at least fifty-five permanent jobs for at least thirty-five members of the Campo Band, almost eliminating tribal unemployment. n104 Here, the most sustained and politically effective opposition to siting the landfill has come from several white neighbors of the Campo Reservation. n105 Unfortunately, LULUs have been sited despite considerable opposition from minority communities. Siting in the face of local opposition, however, is not limited to minority communities. A prominent example of LULU siting in spite of objections from non-minority communities is the decision to place a high-level radioactive waste repository in Nevada. n106 Conversely, other communities with white majorities have lobbied to have facilities, which most people would consider to be LULUs, sited in their jurisdictions in order to gain jobs and other benefits during difficult economic times. n107 In both situations, non-racial factors better explain the outcomes than intentional or societal racism.

#### We have the best SYNTHESIS of studies

Foreman 98

Christopher Foreman is a nonresident senior fellow in Governance Studies. Since 2000, he has also been a professor and director of the social policy program at the University of Maryland’s School of Public Policy. His research focuses on the politics of health, race, environmental regulation, government reform, and domestic social policy

Ph.D. (1980), A.M. (1977), A.B. (1974), Harvard University

The Promise and Peril of Environmental Justice

Christopher Boerner and Thomas Lambert have observed that many studies suffer from severe methodological difficulties or are too limited in scope to reliably indicate broader patterns.66 Indeed, once contrary findings and thoughtful criticisms are taken adequately into account, even a reasonably generous reading of the foundational empirical research alleging environmental inequity along racial lines must leave room for profound skepticism regarding the reported results. Taken as a whole this research offers, at best, only tenuous support for the hypothesis of racial inequity in siting or exposure, and no insight into the crucial issues of risk and health impact.

#### Can’t solve the scale of analysis problem

Kevin 97

Mr. Kevin is an environmental analyst at the Ernest Orlando Lawrence Berkeley National Laboratory in Berkeley, California. J.D., Golden Gate University Law School (1986); Doctoral Candidacy, University of California, Berkeley (1982); M.A., University of California, Berkeley (1975); B.A., University of California, Santa Cruz (1973). Mr. Kevin was an analyst with the U.S. Congressional Office of Technology Assessment from 1979 to 1987, and worked with private sector environmental consulting firms from 1987 to 1996. 8 Vill. Envtl. L.J. 121 "ENVIRONMENTAL RACISM" AND LOCALLY UNDESIRABLE LAND USES: A CRITIQUE OF ENVIRONMENTAL JUSTICE THEORIES AND REMEDIES

As one commentator concluded, "notwithstanding the growing significance of the environmental justice movement, few rigorous studies have been conducted that satisfactorily establish a statistically significant correlation between a community's race and socioeconomic status and its exposure to disproportionate environmental risks or impacts." n61 There are sufficiently important methodological problems with some of the more prominent studies that many environmental justice advocates rely upon to warrant caution in accepting claims of disproportionality at face value. A study by Douglas Anderton, et. al (Anderton Study) of hazardous waste treatment, storage and disposal facilities in the United States that opened for business prior to 1990 and were still open in 1992, and about which data could be found on the level of census [\*134] tracts (about eighty-five percent of such facilities), came to very different conclusions than the UCC and other studies cited by many environmental justice advocates. n62 The Anderton Study found that there were no statistically significant differences between the percentages of Blacks and Hispanics in census tracts with TSDFs and in tracts without such facilities. n63 In other words, there was no correlation between the presence of these minority groups and the presence of a TSDF. n64 The study also found that there were statistically significant correlations between the presence of a TSDF and the following socioeconomic factors: lower employment rate of males, employment in industrial occupations and lower housing values, as compared with non-TSDF tracts. n65 Of these factors, "the most significant and consistent effect on TSDF location of those [factors] ... considered is that TSDFs are located in areas with larger proportions of workers employed in industrial activities, a finding that is consistent with a plausibly rational motivation to locate near other industrial facilities or markets." n66 The discrepancies between the results of the Anderton Study and the findings of the UCC Study stem from the differences in geographic units of analysis chosen by the researchers. n67 The zip code areas used in the UCC Study are larger than the census tracts used in the Anderton Study. The use of these larger units increases the percentage of Blacks in particular. The Anderton Study found that when census tracts within a two and a half mile radius of TSDFs were aggregated, the percentage of black residents was greater than the percentage of Blacks in census tracts containing TSDFs. n68 [\*135] There are no firm guidelines on how to define the geographic extent of areas that are potentially affected, in terms of health, property values and other indicators, by the presence of TSDFs. However, it is likely that data derived from census tracts produce more defensible statistical results than do data based on zip code areas. Accordingly, it is likely that the Anderton Study is more reliable than the UCC Study. n69 Census tracts are designed to be homogeneous with respect to population characteristics, economic status and living conditions. n70 In contrast, zip code areas are basically geographic designations, intended to maximize the transportation efficiency of postal deliveries. n71 Thus, any homogeneity within zip codes is fortuitous, rather than being present by design. Assuming that greater impacts are experienced by individuals closer to a TSDF, census tracts containing a TSDF would logically bear the greatest potential burdens. If there is no correlation between minority populations and TSDFs within census tracts, then the core environmental justice arguments that minorities are targeted for the siting of TSDFs and that minorities disproportionately bear the burdens of such siting are weakened. If a larger percentage of minorities are found within a radius of several miles of TSDFs than is found in the national population, this is arguably due to the larger percentages of minorities in industrial areas in general, which occurs regardless of the presence of TSDFs.

#### Data matters – they don’t solve

Foreman 98

Christopher Foreman is a nonresident senior fellow in Governance Studies. Since 2000, he has also been a professor and director of the social policy program at the University of Maryland’s School of Public Policy. His research focuses on the politics of health, race, environmental regulation, government reform, and domestic social policy

Ph.D. (1980), A.M. (1977), A.B. (1974), Harvard University

The Promise and Peril of Environmental Justice

For environmental justice to contribute measurably to public health in low-income and minority communities, it would almost certainly have to stress an epidemiologic perspective (even in connection with regulatory matters) to a far greater extent than is currently the case. Activism would have to begin with effects and then support honest, analytically defensible assessments of causal factors. But given the overriding concern with citizen mobilization and participation, the continuing focus on citizen fears and frustrations, and the strong incentives for those persons engaged in this activity to continue it, any such shift in perspective would be difficult to achieve.

There’s no racial contract – this is an ideological projection of Mills

Ferguson 4

RACIAL CONTRACT THEORY: A CRITICAL INTRODUCTION by Stephen C. Ferguson II Submitted to the Department of Philosophy and the Faculty of the Graduate School of the University of Kansas in partial fulfillment of the requirements for the degree of Doctor of Philosophy

Racial contract theory: A critical introduction

by Ferguson, Stephen C., Ii, Ph.D., UNIVERSITY OF KANSAS, 2004, 210 pages; 3153181

The third chapter, "Contracting In: The Problem of Consent in the Racial Contract," examines the problem of consent in the Racial Contract, specifically the extent to which all whites have consented to the white supremacist polity. Although Mills is hard pressed to find an actual moment in which all whites have given their explicit consent to the Racial Contract, I suggest that Mills ultimately relies upon a notion of tacit consent Moreover, I argue that Mills - by relying on tacit consent has not provided sufficient evidence to support his claim that all whites benefit from the white supremacist polity. Given the determining role of race in the Racial Contract, in the fourth chapter, "The Metaphysics of Race: Racial Constructivism as Philosophical Anthropology," 1 examine the philosophical anthropology which grounds the Racial Contract, that is, a conventionalist epistemology of race. Race, from Mills' perspective, is a creation, an invention, an artifact that is solely a product of an act of will(s). More specifically, the reality of race is the result of an intersubjective agreement amongst whites. A conventionalist epistemology of race does not adequately capture the objective character of race. Mills does not, in my estimation, see that race is an objective social category because it is a reflection of and embedded in social relations, institutions and practices. Ultimately, for Mills, race functions as a transcendental category; race - with the emergence of the Racial Contract - functions as an a priori form of consciousness (similar to space and time in Kant's critical philosophy) which is not a feature of objective reality, but rather an element of our subjective (cognitive) constitution.

Mills’ analysis of race makes it into a TRANSCENDENTAL category – that’s bad

Ferguson 4

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Second, race, from Mills' perspective, is a creation, an invention, an artifact that is solely a product of an act of will(s). More specifically, the reality of race is the result of an intersubjective agreement amongst whites. A conventionalist epistemology of race does not adequately capture the objective character of race. Mills does not, in my estimation, see that race is an objective social category because it is a reflection of and embedded in social relations, institutions and practices. In my estimation. Mills is on the right track when he argues that race is neither biologically innate (essentialist) nor transhistorical. Yet, Mills falls into a swamp of subjective idealism when he presents race as a transcendental category which is an a priori condition for the possibility of subjective experience under the Racial Contract. Here the distinction between transcendental and transhistorical is important. While Mills recognizes that race has not existed sincc the dawn of human history (transhistorical), he, nonetheless, believes that race - with the emergence of the Racial Contract functions as an a priori form of consciousness (similar to space and time in Kant's critical philosophy) which is not a feature of objective reality, but rather an element of our subjective (cognitive) constitution. Consequently, Mills leaves us with a subjective idealist conception of race.

Multiple statistical measures prove a trend towards equality---this isn’t to say that everything is OK, but that falsifiable claims matter for assessing impacts AND that engagement can be effective

Currie 8

<http://www.american.com/archive/2008/november-11-08/the-long-march-of-racial-progress/>

Duncan Currie is managing editor of THE AMERICAN. Speechwriter and Policy Advisor in U.S. Senate Washington D.C. Metro Area | Government Administration Current: Speechwriter and Policy Advisor, Office of Senator John Cornyn at United States Senate Past: Editorial Director at The George W. Bush Institute, Deputy Managing Editor at National Review, Managing Editor at The American Enterprise Institu... Education: Harvard University

Measuring racial progress is all about perspective. Since Appomattox, the struggle for racial equality has seen triumphs and setbacks alike. On balance, however, the story of race relations in America is one of extraordinary change and transformation. According to Princeton historian James McPherson, the rate of black illiteracy dropped from roughly 90 percent in 1865 to 70 percent in 1880 and to under 50 percent in 1900. “From the perspective of today, this may seem like minimal progress,” McPherson wrote in his 1991 book, Abraham Lincoln and the Second American Revolution (a collection of essays). “But viewed from the standpoint of 1865 the rate of literacy for blacks increased by 200 percent in fifteen years and by 400 percent in thirty-five years.” McPherson also noted that the share of school-age black children attending school jumped from 2 percent in 1860 to 34 percent in 1880. “During the same period,” he said, “the proportion of white children of school age attending school had grown only from 60 to 62 percent.” In 1908, 100 years before the election of America’s first black president, there was a bloody race riot in Springfield, Illinois, which began when an angry mob surrounded a prison where a black man falsely accused of rape was being held. As columnist George Will has observed, “The siege of the jail, the rioting, the lynching, and mutilating all occurred within walking distance of where, in 2007, Barack Obama announced his presidential candidacy.” Over the past century, the racial attitudes of white Americans have undergone a sea change. The shift toward greater racial tolerance was driven by many factors, including blacks’ participation in World War II, the integration of professional sports and the military, and the civil rights movement. “Even as Americans were voting more conservatively in the 1980s, their views on race were becoming more liberal,” Wall Street Journal senior editor Jonathan Kaufman wrote recently. “More than three quarters of whites in 1972 told pollsters that ‘blacks should not push themselves where they are not wanted.’ Two-thirds of whites that same year said they opposed laws prohibiting racial discrimination in the sale of homes. Forty percent said whites had the right to live in segregated neighborhoods.” However, “By the end of 1980s, all those numbers had fallen markedly and [they] continued to fall through the following decades.” As University of Michigan sociologist Reynolds Farley points out in a new paper, there are now 41 African Americans serving in the House of Representatives, compared to only six when the Kerner Commission issued its famous report on race and poverty in 1968. During the years following the Kerner Report, “The slowly rising incomes of black men and the more rapidly rising incomes of black women produced an important economic change for African Americans,” Farley writes. “In 1996, for the first time, the majority of blacks were in the economic middle class or above, if that means living in a household with an income at least twice the poverty line.” According to Farley, “Only three percent of African Americans could be described as economically comfortable in 1968. That has increased to 17 percent at present. This is an unambiguous sign of racial progress: one black household in six could be labeled financially comfortable.” He notes that the black-white poverty gap “is much smaller now” than it was in the late 1960s. Residential and marriage trends are also encouraging. “The trend toward less residential segregation that emerged in the 1980s and accelerated in the 1990s continues in this century,” says Farley. Meanwhile, interracial marriage rates have increased dramatically. “At the time of the Kerner Report, about one black husband in 100 was enumerated with a white spouse. By 2006, about 14 percent of young black husbands were married to white women.”

Progressivism is possible, and it depends on effective decision-making, so T turns the case

Clark, professor of law – Catholic University, ‘95

(Leroy D., 73 Denv. U.L. Rev. 23)

I must now address the thesis that there has been no evolutionary progress for blacks in America. Professor Bell concludes that blacks improperly read history if we believe, as Americans in general believe, that progress--racial, in the case of blacks--is "linear and evolutionary." n49 According to Professor Bell, the "American dogma of automatic progress" has never applied to blacks. n50 Blacks will never gain full equality, and "even those herculean efforts we hail as successful will produce no more than temporary 'peaks of progress,' short-lived victories that slide into irrelevance." n51

Progress toward reducing racial discrimination and subordination has never been "automatic," if that refers to some natural and inexorable process without struggle. Nor has progress ever been strictly "linear" in terms of unvarying year by year improvement, because the combatants on either side of the equality struggle have varied over time in their **energies, resources, capacities, and** the quality of their plans. Moreover, neither side could predict or control all of the variables which accompany progress or non-progress; some factors, like World War II, occurred in the international arena, and were not exclusively under American control.

With these qualifications, and a long view of history, blacks and their white allies achieved two profound and qualitatively different leaps forward toward the goal of equality: the end of slavery, and the Civil Rights Act of 1964. Moreover, despite open and, lately, covert resistance, black progress has never been shoved back, in a qualitative sense, to the powerlessness and abuse of periods preceding these leaps forward. n52

Structural antagonism destroys progressivism and re-entrenches racism—we can acknowledge every problem with the status quo, but adopt a pragmatic orientation towards solutions

Clark, professor of law – Catholic University, ‘95

(Leroy D., 73 Denv. U.L. Rev. 23)

A Final Word

Despite Professor Bell's prophecy of doom, I believe he would like to have his analysis proven wrong. However, he desperately leans on a tactic from the past--laying out the disabilities of the black condition and accusing whites of not having the moral strength to act fairly. That is the ultimate theme in both of his books and in much of his law review writing. That tactic not only lacks full force against today's complex society, it also becomes, for many whites, an exaggerated claim that racism is the sole cause of black misfortunes. n146 Many whites may feel about the black condition what many of us may have felt about the homeless: dismayed, but having no clear answer as to how the problem is to be solved, and feeling individually powerless if the resolution calls for massive resources that we, personally, lack. Professor Bell's two books may confirm this sense of powerlessness in whites with a limited background in this subject, because Professor **Bell does not offer a single programmatic approach** toward changing the circumstance of blacks. He presents only startling, unanalyzed prophecies of doom, which will easily garner attention from a controversy-hungry media. n147

It is much harder to exercise imagination to create viable strategies for change. n148 Professor Bell sensed the despair that the average--especially average black--reader would experience, so he put forth rhetoric urging an "unremitting struggle that leaves no room for giving up." n149 His contention is ultimately hollow, given the total sweep of his work.

At some point it becomes dysfunctional to refuse giving any credit to the very positive abatements of racism that occurred with white support, and on occasion, white leadership. Racism thrives in an atmosphere of insecurity, apprehension about the future, and inter-group resentments. Unrelenting, unqualified accusations only add to that negative atmosphere. Empathetic and more generous responses are possible in an atmosphere of support, security, and a sense that advancement is possible; the greatest progress of blacks occurred during the 1960s and early 1970s when the economy was expanding. Professor Bell's "analysis" is really only accusation and "harassing white folks," and is undermining and destructive. There is no love--except for his own group--and there is a constricted reach for an understanding of whites. There is only rage and perplexity. No bridges are built--only righteousness is being sold.

A people, black or white, are capable only to the extent they believe they are. Neither I, nor Professor Bell, have a crystal ball, but I do know that creativity and a drive for change are very much linked to a belief that they are needed, and to a belief that they can make a difference. The future will be shaped by past conditions and the actions of those over whom we have no control. Yet it is not fixed; it will also be shaped by the attitudes and energy with which we face the future. Writing about race is to engage in a power struggle. It is a non-neutral political act, and one must take responsibility for its consequences. Telling whites that they are irremediably racist is not mere "information"; it is a force that helps create the future it predicts. If whites believe the message, feelings of futility could overwhelm any further efforts to seek change. I am encouraged, however, that the motto of the most articulate black spokesperson alive today, Jesse Jackson, is, "Keep hope alive!" and that much of the strength of Martin Luther King, Jr. was his capacity to "dream" us toward a better place.

#### Vogtle crucial to nuclear future

Haar 12

<http://decodedscience.com/the-first-u-s-nuclear-power-plant-licensed-in-three-decades/10734>

Judy Haar holds a Master's Degree in Nuclear Chemistry. She has worked in the power industry on nuclear, fossil, cogeneration, geysers and alternative energy plants, traveling extensively. Judy Haar holds a Master's Degree in Nuclear Chemistry. She has worked in the power industry on nuclear, fossil, cogeneration, geysers and alternative energy plants, traveling extensively. Her projects included failure anaysis, water chemistry, and meeting emission guidelines, to name a few. Through her chemistry background, she has worked in the field of viruses and medical isotopes. As an entrepreneur, Judy Haar has also started, developed, and grown a variety of small businesses. She now counsels hundreds of small business startups for SCORE.org and has continued her education in social media marketing. Judy presents in workshops and seminars, and writes for Suite 101 in addition to freelancing as a writer. She also publishes on Kindle.

Does nuclear power within the United States have a future? Two new nuclear power reactors have been approved for the Vogtle facility in Georgia, so it appears the answer is yes, at least for the moment, but the question still remains whether new technology and faster licensing meets all the expectations and requirements of nuclear inspectors.

#### Solves coal

Barry Brook, leading environmental scientist, holding the Sir Hubert Wilkins Chair of Climate Change at the University of Adelaide's Environment Institute, 10 [“Nuclear is the least-cost, low-carbon, baseload power source,” Brave New Climate, November 28, http://bravenewclimate.com/2010/11/28/nuclear-is-the-least-cost-low-carbon-baseload-power-source/]

It turns out that technology options for replacing fossil fuels, based on established performance and objective cost projections, are much more limited than is popularly perceived. The review identifies only five proven low-emission technologies that could meet this set of fit-for-service criteria for the supply of baseload power. The technologies are: pulverised fuel coal combustion (PF coal) coupled with carbon capture and storage (CCS); integrated gasification combined cycle coal (IGCC) with CCS; combined cycle gas turbine (CCGT) with CCS; nuclear; and solar thermal with heat storage and gas turbines.¶ Of these five, the only renewable technology is solar thermal with heat storage and gas backup. However, this is the most expensive of the technologies examined and replacing coal with solar thermal power would require a carbon price of over $150 per tonne of emissions.¶ The paper summarises the joint cost and emissions results in the diagram below. This shows how the assessed cost per megawatt-hour of electricity varies with the technology used and the price set for carbon dioxide emissions. These prices, known as levelised costs of electricity, are the accepted way of expressing the average cost of generating electrical energy over the lifetime of a plant. They are regarded as a good indicator of the average wholesale price the power station owner would need to break even, in financial terms, and can be standardised across different technologies (and so are comparable).¶ In the diagram, the five fit-for-service technologies are compared with costs for conventional coal-fired generators using pulverised fuel (PF). The point where each line hits the vertical axis on the left is the cost when there is no carbon price, as happens now. It shows that a modern coal power station produces the cheapest power.¶ As the emission price (e.g., carbon tax) rises, so does the electricity cost. Coal-based power rises fastest because it has the greatest emissions. The points where the line for PF coal crosses the other lines represent the carbon prices where each technology becomes more economic than traditional coal-fired power.¶ Nuclear stands out as the cheapest solution to provide low-emission baseload electricity over almost the whole carbon price range shown. The next cheapest is CCGT (natural gas) with CCS, which needs a carbon price of just over $30. To justify building either of the two coal technologies (PF or IGCC) with CCS requires a carbon price over $40.

#### Coal turns environmental racism – plus worse risk of cancer

Energy Justice Network No Date Given

(“Coal Ash,” <http://www.energyjustice.net/coal/ash>)

**Coal ash is the waste product left over from burning coal**. It is almost entirely unregulated, high in heavy metals, and every year energy companies generate more than 150 million tons of it. While most waste reduction efforts target residential recycling and sometimes construction debris, coal ash is the second largest waste stream in the United States and can be found in 47 states. The ash is disposed of in lagoons (wet pits), landfills (dry pits), and mine pits. It can and has leaked from all of these types of dump sites .

After a devastating coal ash spill in December 2008 in Harriman, TN major news outlets began to take notice.

The outlets asked basic, yet revealing questions – What is coal ash? Where is it stored? How is it stored? How does it affect communities when it spills or leaks? Is it regulated?

The answers are alarming. Coal ash contains boron, cadmium, selenium, mercury, arsenic, chromium, and other dangerous elements. The ash is often stored in large unmaintained surface impoundments, ponds, and abandoned mine sites. There are more than 180 known sites that store this ash in unlined or partially lined pits. Coal ash accidents can take various forms from the collapse of a surface impoundment dam (as happened in TN) or in metals leaching into ground and drinking water. Leaking sites span Indiana, Georgia, South Carolina, New Mexico, Colorado, and Virginia. The list goes on. In 2007 the EPA confirmed 24 cases of leaking ash pits that resulted in contaminated water bodies. Then, in 2010 it had confirmed 67 leaking sites.

**These leaking sites pose a health threat to the communities in which they are located**. A risk assessment drafted by the EPA in August 2007, estimated that exposure to coal combustion waste (CCW) **raises an individual’s cancer risk 9x higher than smoking a pack of cigarettes a day**, and 900x higher than the ‘acceptable risk’ calculated under EPA’s regulatory framework (Source: Sierra Club) . The assessment found that of people who live near a coal ash site, **1 in 50 are diagnosed with cancer** from arsenic contamination (an ‘ingredient’ in coal ash). The In Harm's Way (PDF) report (2010) found that every single ash site equipped with groundwater monitors showed arsenic levels in exceedance of the federal drinking water standards. And as air pollution controls improve, the ash becomes more toxic since heavy metals such as mercury and arsenic are filtered out and collected in the ash.

Despite the EPA’s analysis confirming the adverse health effects of coal ash exposure, there are no federal regulations on the waste and coal ash is entirely unregulated in at least 20 states . On coal ash regulation, Sue Sturgis, investigative reporter with Facing South online magazine writes, “For example, most states don't require groundwater monitoring and runoff collection at coal ash impoundments, and more than half don't require liners or financial assurances to guarantee the owners can pay for cleanup of any contamination that might occur.”

Often **the waste is shipped to the cheapest**, **least regulated depository** - often **in low-income communities**. For instance, following the massive ash spill in Tennessee, the Tennessee Valley Authority (TVA) began shipping its waste more than 300 miles south to Perry County, AL. In Perry County (where coal ash is entirely unregulated), residents found themselves the unconsulted hosts of 3 million tons of coal ash from Harriman, TN’s spill. The coal ash facility in Uniontown, AL is surrounded by three churches and 212 people within a radius of a mile and a half.

Run-off from its massive landfill is 80x the safe drinking water standard .

Uniontown is **88 percent African-American** and nearly half of its residents live below the poverty line – a fact that has raised questions about environmental injustice, including **environmental racism**.

Uniontown is just one of many low-income communities to sit beside a coal ash dump. An analysis of 44 sites the EPA lists as “high hazard” (where dam failure would likely cause loss of life), shows that 45 percent are in areas with large low-income populations. Though national poverty rates hover around 12 percent, several of the sites are situated in areas with poverty levels of 19, 20, and 29 percent. **Trends of environmental injustice based on race and class could be significantly more pronounced if the analysis** included sites that pose a threat due to leaching or if it **analyzed all coal ash sites**, **not only the ones identified as** “**high hazard**”.

#### Nuclear power expansion’s key to global desalination

Saly T. Panicker and P.K. Tewari 11, Desalination Division, Bhabha Atomic Research Centre, Mumbai, “Nuclear Energy for Water Desalination” in “Nuclear Energy Encyclopedia: Science, Technology, and Applications”, googlebooks

Water scarcity is one of the most pressing crises affecting our planet It is a global issue. Water is indispensable for industrial development, economic growth, social well-being, and for the preservation of natural resources. It is estimated that one-fifth of the worlds population does not have access to sate drinking water. Drinking water with physical, chemical, or biological contamination has harmful effects on human beings. Seawater. brackish water, and fresh water have different levels of salinity, which is normally expressed by the total dissolved solids (TDS> concentration. Water is considered potable when its TDS is below 500 parts per million (ppin) as per the World Health Organization (WHO\*. A virtually inexhaustible reserve of water exists in the sea, which is not fit for drinking.

Desalination is the process of producing pure water from saline water using electricity or heat. The major types of commercial desalination processes arc (a) thermal processes, such as multi-stage flash (MSI-"!, multiple-effect distillation (MED). vapor compression (VC). and low temperature evaporation (LTE), where heat energy is used to vaporize fresh water from saline water; and (b) membrane processes such as reverse osmosis (RO) and electro-dialysis (ED), where pure water is separated through suitable membranes using mechanical or electrical energy. Globally, about 60 million cubic meter/day (M3/d) of fresh water is produced hy desalination. The energy for these plants is generally supplied from the conventional fossil fuel power plants. However, the depleting sources and future price uncertainty of the fossil fuels promote production of energy from nuclear or renewable sources.

9.2 NUCLEAR DESALINATION

Desalination is an energy-intensive process. A desalination system, especially ihe thermal unit, can be integrated with a power plant for directly receiving steam, electricity, and coolant (scawatcr) return stream as feed. Co-location of desalination and power plants lias the henelits of sharing infrastructural facilities, which would lead to the reduction of overall costs. Such dual purpose plants generating power and water have inherent design strategies for better thermodynamic efficiency besides economic optimization. Production of potable water in a facility in which a nuclear reactor is used as the source of energy for the process is termed nuclear desalination. Tins energy could be low-grade steam (for MSF/MED), waste heal (for LTE), or electricity (for ROVED). Years of successful operation have proved the technical feasibility and reliability of nuclear desalination.

A power plan! coupled with a desalinaiion system utilizing only a pan of the total energy for producing water is known as a dual-purpose plain or a cogeneration plant. A power plant exclusively dedicated for water desalination is known as single-purpose plant. For a given power rating, a nuclear power plant, in general, has a larger amount of waste heat than a fossil fuel power plant. The enthalpy of steam available at the inlet to the high pressure (HP) turbine of a nuclear power plant is lower due to the lower pressure and temperature of the saturated steam. Thus, the specific steam consumption in a nuclear power plant is higher as compared to conventional power plant. This leads to availability of a higher amount of steam that could be utilized for desalination (Table 9.1). In addition, a nuclear power plant is normally situated in coastal areas, where the feed seawater is available nearby and also there is scarcity of good quality water.

Table 9.2 shows the parameters of steam, produced in various reactor types. A nuclear plant, depending on its type, can provide steam or process heat from about 50 to I50°C for desalination. Liquid Metal Fast Breeder Reactor (LMFBR) and High Temperature Gas Cooled Reactor (HTCiR) generate steam at higher temperature and pressure. LMFBRs produce steam at approximately 500°C and MTGRs at still higher temperatures.

93 WORLD SCENARIO OF NUCLEAR DESALINATION

The possibility of using nuclear energy for desalination of seawater was realized as early as the 1960s. Experience with nuclear desalination now exceeds 150 reactor-years. Table 9.3 gives a list of the nuclear plants used for desalination of water.

Nuclear desalination has been drawing broad interest among the member states of International Atomic Energ) Agency (IAEA) due to acute water issues in many arid and semi-arid areas worldwide. The IAEA is playing an important role as a facilitating agency for creating (lie awareness, coordinating research projects, identifying important topics of common interest, organizing technical meetings, and providing forums for exchange of information on nuclear desalination. Argentina is exploring the possibilities of using its small reactor. CAREM, for providing energy input to desalination system. China has completed the feasibility study of nuclear desalination project using the NHR-200 type of nuclear reactor. Egypt has completed a feasibility study for a nuclear co-generation plant at El-Dabaa. Construction of a pre-heal reverse osmosis (RO) lest facility at El-Dabaa has been completed. France has collaborations with III Libya to undertake lechno-economie feasibility study for a specific site ami the adaptation of the experimental reactor at Tajoura for nuclear desalination and (2) Morocco (The AMANE project) for techno-economic feasibility study of Agadir and Laayoun sites. In Japan, several nuclear reactors are integrated with desalination facilities. The Korean program includes development of an integrated desalination plant with SMART for electricity generation and scawater desalination. Pakistan is establishing an MED based nuclear desalination demonstration plant integrated with the Karachi Nuclear Power Plant (KANUPP). The Russian Federal Agency for Atomic Energy (ROSATOM) is constructing a floating barge mounted co-generation nuclear plant based on ship propulsion reactor KLT-40s of PWR type. Tunisia has completed techno-economic feasibility study for the la Skhira site in the southeast part

of the country. Nuclear desalination is one of the missions of U.S. Department of Energy's launched Global Nuclear Energy Partnership (GNEP)'s Grid Appropriate Reactor (GAR) campaign. Indonesia, Saudi Arabia, Algeria. Brazil. Islamic Republic of Iran, Iraq. Italy, Jordan. Lebanon. Philippines. Syrian Arab Republic, and the UAE are exploring the potential of nuclear desalination in their countries or regions.

#### Global water scarcity’s inevitable – kills billions

Nitish Priyadarshi 12, lecturer in the department of environment and water management at Ranchi University in India, “War for water is not a far cry”, June 16, <http://www.cleangangaportal.org/node/44>

The battles of yesterday were fought over land. Those of today are over energy. But the battles of tomorrow may be over water. Along with population growth and increasing per capita water consumption, massive pollution of the world's surface water systems has placed a great strain on remaining supplies of clean fresh water. Global deforestation, destruction of wetlands, dumping of pesticides and fertilizer into waterways, and global warming are all taking a terrible toll on the Earth's fragile water system.

The combination of increasing demand and shrinking supply has attracted the interest of global corporations who want to sell water for a profit. The water industry is touted by the World Bank as a potential trillion-dollar industry. Water has become the “blue gold” of the 21st century.

In many parts of the world, one major river supplies water to multiple countries. Climate change, pollution and population growth are putting a significant strain on supplies. In some areas renewable water reserves are in danger of dropping below the 500 cubic meters per person per year considered a minimum for a functioning society.

In recent times, several studies around the globe show that climatic change is likely to impact significantly upon freshwater resources availability. In India, demand for water has already increased manifold over the years due to urbanization, agriculture expansion, increasing population, rapid industrialization and economic development. At present, changes in cropping pattern and land-use pattern, over-exploitation of water storage and changes in irrigation and drainage are modifying the hydrological cycle in many climate regions and river basins of India.

Due to warming and climate change rainfall trend has been badly affected worldwide. This change has adversely affected the groundwater recharge.

Water scarcity is expected to become an even more important problem than it is today.

In a case study of Jharkhand state of India groundwater recharging is mainly dependent on rainfall. Though Jharkhand receives sufficient amount of rainfall (900 to 1400 mm/year) but from last several years the rainfall pattern is very erratic. From last two years Ranchi city the capital of Jharkhand state received sufficient rainfall but distribution of rainfall was not uniform. It rained heavily just for two to three days in the month of August and September which resulted in heavy runoff and less infiltration affecting groundwater level.

The process of urbanization and industrialization from last 20 years has caused changes in the water table of Jharkhand State of India as a result of decreased recharge and increased withdrawal. Many of the small ponds which were main source of water in the surrounding areas are now filled for different construction purpose affecting the water table.

By 2100, water scarcity could impact between 1.1 and 3.2 billion people, says a leaked draft of an Intergovernmental Panel on Climate Change (IPCC) report due to be published in April 2007. The report focuses on the consequences of global warming and options for adapting to them. In February 2007 the panel released a report on the scientific basis of climate change.

The IPCC predicts critical water shortages in China and Australia, as well as parts of Europe and the United States. Africa and poor countries such as Bangladesh would be most affected because they were least able to cope with drought.

Major cities worldwide may face a water shortage crisis by 2050 if relevant governments don't react quickly. The water shortage will mostly affect basic daily needs such as drinking, cooking, bathing and washing clothes, and the poor residents of the world's major cities in developing countries are the ones who will suffer most.

"By 2050, big cities that will not have enough water available nearby include Beijing, New Delhi, Mexico City, Lagos and Tehran. China and India will be particularly hard hit unless significant new efforts are taken by their cities,".

There are several principal manifestations of the water crisis.

1. Inadequate access to safe drinking water for about 884 million people.

2. Inadequate access to water for sanitation and waste disposal for 2.5 billion people.

3. Groundwater over drafting (excessive use) leading to diminished agricultural yields.

4. Overuse and pollution of water resources harming biodiversity.

5. Regional conflicts over scarce water resources sometimes resulting in warfare.

Potential Hot Spots:

Egypt: A coalition led by Ethiopia is challenging old agreements that allow Egypt to use more than 50 percent of the Nile’s flow. Without the river, all of Egypt would be desert.

Eastern Europe: Decades of pollution have fouled the Danube, leaving down-stream countries, such as Hungary and the Republic of Moldova, scrambling to find new sources of water.

Middle East: The Jordan River, racked by drought and diverted by Israeli, Syrian and the Jordanian dams, has lost 95 percent of its former flow.

Former Soviet Union: The Aral sea, at one time the world’s fourth largest inland sea, has lost 75 percent of its water because of diversion programs begun in the 1960s.

There are many other countries of the world that are severely impacted with regard to human health and inadequate drinking water. The following is a partial list of some of the countries with significant populations (numerical population of affected population listed) whose only consumption is of contaminated water:

 Sudan: 12.3 million

 Venezuela: 5.0 million

 Ethiopia: 2.7 million

 Tunisia: 2.1 million

 Cuba :1.3 million

#### The Vogtle plant is fine – fears of it are fact-optional : quals, anti-nuclear bias

Skutnick and Rominger 2/21/12

<http://neutroneconomy.blogspot.com/2012/02/other-thing-vogtle-has-revived-nuclear.html>

Steve Skutnick is a participant in the Nuclear Engineering Student Laboratory Synthesis (NESLS) program and is being mentored by Ian Gauld of the Reactor Analysis group. Mr. Skutnick grew up in Omaha, Nebraska, but has lived all over- Albuquerque, Ames (Iowa), Chicago, and now Raleigh. Steve has visited ORNL before, for a Safeguards Workshop but, this is his first internship. Steve attends North Carolina State University, where he is pursuing a PhD in Nuclear Engineering and expects to receive his degree in the spring of 2012. He received his B.S. in Physics and M.S. in Nuclear Physics from Iowa State. Alan Rominger, PhD Student Graduate Research Assistant, North Carolina State University Raleigh, North Carolina, United States

The other thing Vogtle has revived: Nuclear hysteria Kitchen sink They say no one likes a buzzkill, but almost as if on queue, the NRC's announcement of its issue of the first combined operating license (COL) in over three decades has drawn out the usual suspects committed to reassuring us that this both simultaneously meaningless (read, "The Nuclear Renaissance is still dead!") and yet somehow at the same time, an imminent danger. Call it the nuclear equivalent of the "double-tap" - anti-nuclear activists will throw out everything (kitchen sinks included) as an effort to kill off an apparently "moribund" comeback of nuclear energy. The Vogtle announcement seems to have put this process into overdrive. One probably needs to learn to develop thick skin when working in this field, but sometimes the arguments get obnoxious enough to be called out on their own. Take for example a recent facts-optional anti-nuclear jeremiad published over at The Energy Collective (Disclosure: On occasion my posts are syndicated over there), entitled, "Rethinking the Nuclear Renaissance." The piece is essentially a warmed-over serving of recycled arguments (one can suppose at least that part of it makes it "green"), made somehow new and interesting by the fact that there has been some incremental forward motion on reactor construction in the United States. (But never fear, readers - as our intrepid author assures us, "...only 5 reactors including the two in Georgia that are likely to be completed in the next decade," and yet another of those was one which started in the 70's [Watts Barr] and never completed.) At this point already one may wish to don their wading boots, because at the risk of falling into the classic XCKD trap, we're about to go debunking. Getting down into the thick of it, the author, Holbert Janson, implies that the process of licensing the two Georgia units was rushed, citing as his evidence the lone dissenting vote by Chairman Gregory Jaczko, who expressed concerns that the licensing process had not adequately addressed issues raised by the Fukushima disaster. Let's run with that point for a moment, shall we? Not only is the design being licensed - Westinghouse's AP1000 design - one which relies exclusively on natural circulation for cooling in an emergency scenario (i.e., no diesel-powered pumps are required to circulate coolant within the core, obviating the failure mode which actually occurred), but the Vogtle site is also nowhere near an active seismic boundary. Further, many of the concerns raised over Fukushima - such as allowing for better instrumentation and monitoring in spent fuel pools - are ones which do not impact the actual facility design itself. Perhaps most tellingly, the only Commissioner to vote against the license was the one with absolutely zero experience in nuclear engineering or reactors whatsosoever (Chairman Jaczko's background is a Ph.D. in theoretical particle physics, and his prior experience has been confined to serving as legislative staff to Rep. Ed Markey and Sen. Harry Reid); compare this to the near century of combined nuclear experience of the other four Commissioners. (Again, while an argument from authority is never an argument unto itself, the break in the vote along experience lines is telling - especially given that these four Commissioners represent both Republican and Democratic appointments.) With little logical connection to the prior point, Janson then segues into attempting to imply nefarious politics at work responsible for all of this: The erstwhile nuclear power renaissance was the result of decades of lobbying and spending by players in the nuclear industry after the Three Mile Island incident effectively halted any new nuclear power in the U.S. for over a generation. Frankly, if it's taken three decades of "lobbying and spending" to achieve a paltry five reactors (one of which isn't even new - an obviously important point according to our author), the nuclear industry has gotten the raw end of the deal on this one. What about the very lucrative (and from the results, if one measures by direct subsidies) lobbying by the "renewables" industry, to which if Spain is any example, would implode without generous government support? Janson is of course silent on this point. Janson then goes on to question the green bona fides of nuclear power, pointing out of course that yes, in fact, we have to mine uranium ore. In other news, we also have to smelt iron and aluminum to build wind turbines (and lots of it if you plan on generating any kind of serious power) - but I suppose we'll assume those are consequence-free operations. Inexplicably, this then appears in the midst of his deconstruction of nuclear's green credentials: Unlike other alternative energy sources nuclear power does not enjoy strong public support. Three Mile Island, Chernobyl, and Fukushima all served, and rightfully so, to frighten the public over the potential catastrophic risks inherent in nuclear power. First, since when did "public support" have any bearing on scientific facts? Were that the case, evolution and climate change would certainly be in dangerous territory (and the theory of a geocentric universe might well be in for a revival). Second is his telling choice of phrase - "Three Mile Island, Chernobyl, and Fukushima all served, and rightfully so, to frighten the public." So, a nuclear accident in which not one person died (Three Mile Island) and another - the worst in a generation in which still no one has received a fatal dose of radiation (Fukushima) - should be serving to "scare the public?" Nevermind the tens of thousands who died from the great Tohoku earthquake and tsunami - people should be scared of something which has yet to kill anyone. (Meanwhile, the case of Chernobyl is one which is one which strictly speaking could not happen in the U.S., specifically because the nature of this reactor - the reaction "speeds up" as the temperature increases - is specifically prohibited by law in the U.S., for compelling safety reasons). Further, if mass casualties should serve to "frighten the public," one wonders then why Mr. Janson does not consider the case of the Bhopal disaster - an industrial accident at a Union Carbide chemical facility in India which killed over 3000 people within a few weeks and injured tens of thousands more. By this estimate, a single industrial accident - Bhopal - has killed more people itself than the combined fleet of over 400 reactors across the globe. So where is the campaign to cease large-scale chemical and industrial facilities? Chances are you won't find it - some risks, it would seem, are more tolerable than others.

# 2NC

## at: w/m = restriction

Restrictions on production must mandate a decrease in the quantity produced

Anell 89

Chairman, WTO panel

"To examine, in the light of the relevant GATT provisions, the matter referred to the

CONTRACTING PARTIES by the United States in document L/6445 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2." 3. On 3 April 1989, the Council was informed that agreement had been reached on the following composition of the Panel (C/164): Composition Chairman: Mr. Lars E.R. Anell Members: Mr. Hugh W. Bartlett Mrs. Carmen Luz Guarda CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5 December 1989 (L/6568 - 36S/68)

http://www.wto.org/english/tratop\_e/dispu\_e/88icecrm.pdf

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

#### On is exclusively targeted

Dictionary.com No Date

http://dictionary.reference.com/browse/on?s=t

“ON”:16. (used to indicate a source or a person or thing that serves as a source or agent): a duty on imported goods; She depends on her friends for encouragement.

Including regulations is a limits disaster

Doub 76

Energy Regulation: A Quagmire for Energy Policy

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Mr. Doub is a principal in the law firm of Doub and Muntzing, which he formed in 1977. Previously he was a partner in the law firm of LeBoeuf, Lamb, Leiby and MacRae. He was a member of the U.S. Atomic Energy Commission in 1971 - 1974. He served as a member of the Executive Advisory Committee to the Federal Power Commission in 1968 - 1971 and was appointed by the President of the United States to the President's Air Quality Advisory Board in 1970. He is a member of the American Bar Association, Maryland State Bar Association, and Federal Bar Association. He is immediate past Chairman of the U.S. National Committee of the World Energy Conference and a member of the Atomic Industrial Forum. He currently serves as a member of the nuclear export policy committees of both the Atomic Industrial Forum and the American Nuclear Energy Council. Mr. Doub graduated from Washington and Jefferson College (B.A., 1953) and the University of Maryland School of Law in 1956. He is married, has two children, and resides in Potomac, Md. He was born September 3, 1931, in Cumberland, Md.

FERS began with the recognition that federal energy policy must result from concerted efforts in all areas dealing with energy, not the least of which was the manner in which energy is regulated by the federal government. Energy selfsufficiency is improbable, if not impossible, without sensible regulatory processes, and effective regulation is necessary for public confidence. Thus, the President directed that "a comprehensive study be undertaken, in full consultation with Congress, to determine the best way to organize all energy-related regulatory activities of the government." An interagency task force was formed to study this question. With 19 different federal departments and agencies contributing, the task force spent seven months deciphering the present organizational makeup of the federal energy regulatory system, studying the need for organizational improvement, and evaluating alternatives. More than 40 agencies were found to be involved with making regulatory decisions on energy. Although only a few deal exclusively with energy, most of the 40 could significantly affect the availability and/or cost of energy. For example, in the field of gas transmission, there are five federal agencies that must act on siting and land-use issues, seven on emission and effluent issues, five on public safety issues, and one on worker health and safety issues-all before an onshore gas pipeline can be built. The complexity of energy regulation is also illustrated by the case of Standard Oil Company (Indiana), which reportedly must file about 1000 reports a year with 35 different federal agencies. Unfortunately, this example is the rule rather than the exception.

Causes bidirectionality

McKie 84

Professor James W. McKie, distinguished member of the economics department at The University of Texas at Austin for many years

McKie, J W

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THE MULTIPLE PURPOSES OF ENERGY REGULATION AND PROMOTION Federal energy policy since World War II has developed into a vast and multidirectional program of controls, incentives, restraints, and promotions. This development accelerated greatly during the critical decade after 1973, and has become a pervasive and sometimes controlling influence in the energy economy. Its purposes, responding to a multitude of interests and aims in the economy, have frequently been inconsistent, if not obscure, and the results have often been confusing or disappointing.

#### Transparency and public involvement in NRC now

Karen Cyr, NRC General Counsel, Jan 2009, http://pbadupws.nrc.gov/docs/ML0930/ML093080398.pdf

On January 21, 2009, the President issued two related memoranda, addressed to the heads of executive departments and agencies, which set forth general principles regarding governmental transparency and the Freedom of Information Act (FOIA), respectively. The basic theme of these memoranda is that the government as a servant of the public, should keep the public informed about its activities and should involve the public as much as possible in its decision making. Each memorandum further directs the preparation of additional implementation details that would be applicable government-wide. Until such details are developed, however, the practical impact upon the Nuclear Regulatory Commission (NRC) cannot be assessed. The two memoranda are summarized below, and copies of the memoranda are attached. Transparency and Open Government

The President's memorandum entitled "Transparency and Open Government" announces a set of principles aimed at "creating an unprecedented level of openness in Government." These

principlesare broken down into three (overlapping) categories: (1) public access to information- (2) public participation, and (3) collaboration. The memorandum also directs "the Chief Technology Officer,1 in coordination with the Office of Management and Budget (OMB) and the Administrator of General Services, to coordinate the development by appropriate executive departments and agencies, within 120 days, of recommendations for an Open Government Directive (OGD), to be issued by the Director of OMB," that will provide agencies with specific implementation instructions. The memorandum specifically advises that independent agencies "should comply" with this forthcoming directive. 2

In general, the principles contained in the memorandum appear consistent with the NRC's current practices. For instance, the memorandum calls for the disclosing of agency information "rapidly in forms that the public can readily find and use" and indicates that "new technologies" should be used to place "information about [agency] operations and decisions online and readily available to the public." The availability of NRC documents through the NRC public website, which includes access both to the searchable public Agencywide Document Access and Management System (ADAMS) database and to other information and document collections present on the website itself, seems to go a long way, if not the entire way, towards fulfilling this stated goal. It is conceivable, though, that the NRC may need to make some adjustments to its online information access scheme if the OGD includes detailed prescriptive requirements or requires government-wide standardization.

As to public participation, the memorandum notes in very general terms that public involvement fosters better government decision-making and calls upon agencies to increase the opportunities for public participation and to "solicit public input" on how to facilitate and improve public participation. The NRC currently offers members of the public a variety of ways to participate in its decision-making, and so it is not clear that the OGD, once developed, would necessarily require substantial new steps by the NRC. Nonetheless, the memorandum does call for "increasing" and "improving" public participation, and for seeking public input on how to do so; it is possible that compliance with the OGD may potentially entail additional action by all agencies, no matter their current level of public participation.

#### Substantial FOIA transparency—presumption against secrecy

Karen Cyr, NRC General Counsel, Jan 2009, http://pbadupws.nrc.gov/docs/ML0930/ML093080398.pdf

The President's memorandum on the Freedom of Information Act (FOIA) announces that the

FOIA should be interpreted in a manner that favors disclosure. The memorandum states that "agencies should adopt a presumption in favor of disclosure" that "should be applied to all

decisions involving FOIA." In addition, the memorandum emphasizes that information disclosure obligations exist even when the public has not requested information. Finally, the memorandum directs the Attorney General to issue new FOIA guidelines to implement the principles enunciated in the memorandum and further directs the Director of OMB to update guidance to agencies related to information dissemination.

While the memorandum most forcefully targets document withholdings that conflict with the spirit of the FOIA, its ultimate reach will likely be broader than that. In addition to criticizing the withholding of information for reasons such as avoidance of embarrassment or concealment of errors, the memorandum takes issue with the withholding of information "because of speculative or abstract fears." Particularly when viewed in light of the Transparency and Open Government memorandum discussed above, this statement might indicate that the administration will support the release of some information that agencies historically may have withheld under various FOIA exemptions. And more broadly, the tenor of the memorandum would seem to signal that the Department of Justice will be less willing to defend FOIA withholding decisions that are challenged in court, particularly where the potential harm from disclosure is not self-evident or clearly consistent with law or policy.

The memorandum also indicates that the presumption of disclosure under FOIA should apply even in the absence of FOIA requests. According to the memorandum, "agencies should use modern technology to inform citizens about what is known and done by their government," whether prompted by FOIA requests or not. The NRC's consistent commitment to making a wide range of agency information and documentation publicly available via its public website and through public ADAMS likely goes a long way towards satisfying this Presidential mandate. What more, if anything, will be required will depend upon the new guidelines to be issued by the Attorney General and the Director of OMB. No deadlines for the issuance of this guidance were established.

## 2nc at: case specific exclusion/ethics

Topical version of the aff solves: incentivize nuclear with equitable siting or incentivize small-scale renewables to displace nuclear

Hager, professor of political science – Bryn Mawr College, ‘92

(Carol J., “Democratizing Technology: Citizen & State in West German Energy Politics, 1974-1990” *Polity*, Vol. 25, No. 1, p. 45-70)

What is the role of the citizen in the modern technological state? As political decisions increasingly involve complex technological choices, does a citizen's ability to participate in **decision making** diminish? These questions, long a part of theoretical discourse, gained new salience with the rise of **grassroots environmental protest in advanced industrial states.** In West Germany, where a strong environmental movement arose in the 1970s, protest has centered as much on questions of democracy as it has on public policy. Grassroots groups challenged not only the construction of large technological projects, especially power plants, but also the **legitimacy of the bureaucratic institutions** which produced those projects.

Policy studies generally ignore the legitimation aspects of public policy making.2 A discussion of both dimensions, however, is crucial for understanding the significance of grassroots protest for West German political development in the technological age and for assessing the likely direction of citizen politics in united Germany.

In the field of energy politics, West German citizen initiative groups tried to politicize and ultimately to democratize policy making.3 The **technicality** **of the issue** **was not a barrier** to their participation. On the contrary, grassroots groups proved to be able participants in technical energy debate, often proposing innovative solutions to technological problems. Ultimately, however, they wanted not to become an elite of "counterexperts," but to create a political discourse between policy makers and citizens through which the **goals of energy policy could be recast** and its legitimacy restored. Only a deliberative, expressly democratic form of policy making, they argued, could enjoy the support of the populace. To this end, protest groups developed new, grassroots democratic forms of decision making within their own organizations, which they then tried to transfer to the political system at large. The legacy of grassroots energy protest in West Germany is twofold.

First, it produced major substantive changes in public policy. Informed citizen pressure was largely responsible for the introduction of new plant and pollution control technologies. Second, grassroots protest **undermined** the **legitimacy** of bureaucratic experts. Yet, an acceptable forum for a broadened political discussion of energy issues has not been found; the energy debate has taken place largely outside the established political institutions. Thus, the legitimation issue remains unresolved. It is likely to reemerge as Germany deals with the problems of the former German Democratic Republic. Nevertheless, an evolving ideology of citizen participationa vision of "technological democracy"-is an important outcome of grassroots action.

## at: duffy

Switch side debate

Duffy 83

Duffy ’83 [Bernard, Rhetoric PhD – Pitt, Communication Prof – Cal Poly, “The Ethics of Argumentation in Intercollegiate Debate: A Conservative Appraisal,” National Forensics Journal, Spring, pp 65-71, accessed at <http://www.nationalforensics.org/journal/vol1no1-6.pdf>]

I am not proposing that debaters only make arguments they believe in. Students also learn from articulating the principles which underlie positions they oppose.

Rules

Duffy 83

Duffy ’83 [Bernard, Rhetoric PhD – Pitt, Communication Prof – Cal Poly, “The Ethics of Argumentation in Intercollegiate Debate: A Conservative Appraisal,” National Forensics Journal, Spring, pp 65-71, accessed at <http://www.nationalforensics.org/journal/vol1no1-6.pdf>]

But in this case, why talk about the ethics of debate at all? If the term only means observing the rules of the game, it is not particularly significant. Debate should be a thoroughly ethical enterprise. It should educate students in ethics, as well as requiring them to follow the rules.

Duffy is wrong - Switch side debate is good

Koehle 10

Joe Koehle, Phd candidate in communications at Kansas, former West Georgia debater

http://mccfblog.org/actr/wp-content/uploads/2010/12/Koehle\_Paper\_ACTR-editedPDF.pdf.

Much like criticism of the sophists has persisted throughout time; criticism of switch side debate has been a constant feature since the advent of tournament-style debating. Harrigan documents how numerous these criticisms have been in the last century, explaining that Page 15 Koehle 15 complaints about the mode of debate are as old as the activity itself (9). The most famous controversy over modern switch side debate occurred in 1954, when the U.S. military academies and the Nebraska teachers‟ colleges decided to boycott the resolution: “Resolved: That the United States should extend diplomatic relations to the communist government of China.” The schools that boycotted the topic argued that it was ethically and educationally indefensible to defend a recognition of communists, and even went so far as to argue that “a pro-recognition stand by men wearing the country‟s uniforms would lead to misunderstanding on the part of our friends and to distortion by our enemies” (English et al. 221). Switch side debate was on the defensive, and debate coaches of the time were engaged in virulent debate over the how to debate. The controversy made the national news when the journalist Edward Murrow became involved and opined on the issue in front of millions of TV viewers. English et al. even go so far as to credit the “debate about debate” with helping accelerate the implosion of the famous red- baiting Senator Joseph McCarthy (222). The debate about debate fell back out of the national spotlight after the high-profile incident over the China resolution, but it never ended in the debate community itself. The tenor of the debate reached a fever pitch when outright accusations of modern sophistry (the bad kind) were published in the Spring 1983 edition of the National Forensic Journal, when Bernard K. Duffy wrote, “The Ethics of Argumentation in Intercollegiate Debate: A Conservative Appraisal.” Echoing the old Platonic argument against sophistic practice, Duffy argued that switch side debate has ignored ethical considerations in the pursuit of teaching cheap techniques for victory (66). The 1990‟s saw a divergence of criticisms into two different camps. The first camp was comprised of traditional critics who argued that debate instruction and practice promoted form over substance. For example, a coach from Boston College lamented that absent a change, “Debate instructors and their students will become the sophists of our age, susceptible to the traditional indictments elucidated by Isocrates and others” (Herbeck). Dale Bertelstein published a response to the previously cited article by Muir about switch side debate that launched into an extended discussion of debate and sophistry. This article continued the practice of coaches and communications scholars developing and applying the Platonic critique of the sophists to contemporary debate practices. Alongside this traditional criticism a newer set of critiques of switch side debate emerged. Armed with the language of Foucauldian criticism, Critical Legal Studies, and critiques of normativity and statism, many people who were uncomfortable with the debate tradition of arguing in favor of government action began to question the reason why one should ever be obliged to advocate government action. They began to argue that switch side debate was a mode of debate that unnecessarily constrained people to the hegemony of debating the given topic. These newer criticisms of switch side debate gained even more traction after the year 2000, with several skilled teams using these arguments to avoid having to debate one side of the topic. William Spanos, a professor of English at SUNY Binghamton decided to link the ethos of switch side debate to that of neo-conservatism after observing a debate tournament, saying that “the arrogant neocons who now saturate the government of the Bush…learned their „disinterested‟ argumentative skills in the high school and college debate societies and that, accordingly, they have become masters at disarming the just causes of the oppressed.” (Spanos 467) Contemporary policy debate is now under attack from all sides, caught in its own dissoi logoi. Given the variety of assaults upon switch side debate by both sides of the political spectrum, how can switch side debate be justified? Supporters of switch side debate have made many arguments justifying the value of the practice that are not related to any defense of sophist Page 17 Koehle 17 techniques. I will only briefly describe them so as to not muddle the issue, but they are worthy of at least a cursory mention. The first defense is the most pragmatic reason of all: Mandating people debate both sides of a topic is most fair to participants because it helps mitigate the potential for a topic that is biased towards one side. More theoretical justifications are given, however. Supporters of switch side debate have argued that encouraging students to play the devil‟s advocate creates a sense of self-reflexivity that is crucial to promoting tolerance and preventing dogmatism (Muir 287). Others have attempted to justify switch side debate in educational terms and advocacy terms, explaining that it is a path to diversifying a student‟s knowledge by encouraging them to seek out paths they may have avoided otherwise, which in turn creates better public advocates (Dybvig and Iversen). In fact, contemporary policy debate and its reliance upon switching sides creates an oasis of argumentation free from the demands of advocacy, allowing students to test out ideas and become more well-rounded advocates as they leave the classroom and enter the polis (Coverstone). Finally, debate empowers individuals to become critical thinkers capable of making sound decisions (Mitchell, “Pedagogical Possibilities”, 41).

## 2nc at: switch side bad

Only switching sides produces an energy dialogue that activates critique

Stevenson, PhD, senior lecturer and independent consultant – Graduate School of the Environment @ Centre for Alternative Technology, ‘9

(Ruth, “Discourse, power, and energy conflicts: understanding Welsh renewable energy planning policy,” *Environment and Planning C: Government and Policy*, Volume 27, p. 512-526)

It could be argued that this result arose from the lack of expertise of the convenors of the TAN 8 in consensual decision making. Indeed, there is now more research and advice on popular participation in policy issues at a community level (eg Kaner et al, 1996; Ostrom, 1995; Paddison, 1999). However, for policy making the state remains the vehicle through which policy goals must be achieved (Rydin, 2003) and it is through the state that global issues such as climate change and sustainable development must be legislated for, and to some extent enacted. It is therefore through this structure that any consensual decision making must be tested. This research indicates that the policy process cannot actually overcome contradictions and conflict. Instead, **encompassing them may well be a more fruitful way forward than attempts at consensus.** Foucault reinforces the notion that the `field of power' can prove to be positive both for individuals and for the state by allowing both to act (Darier, 1996; Foucault, 1979). Rydin (2003) suggests that actors can be involved in policy making but through `deliberative' policy making rather than aiming for consensus: ``the key to success here is not consensus but building a position based on divergent positions'' (page 69).

Deliberative policy making for Rydin involves: particular dialogic mechanisms such as speakers being explicit about their values, understandings, and activities: the need to move back and forth between memories (historical) and aspirations (future); moving between general and the particular; and the adoption of role taking (sometimes someone else's role). There is much to be trialed and tested in these deliberative models, however, a strong state is still required as part of the equation if we are to work in the interests of global equity, at least until the messages about climate change and sustainable development are strong enough to filter through to the local level. It is at the policy level that the usefulness of these various new techniques of deliberative policy making must be tested, and at the heart of this must be an understanding of the power rationalities at work in the process.

## at: roleplay = passivity

DEBATE roleplay specifically activates agency

Hanghoj 8

http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf

Thorkild Hanghøj, Copenhagen, 2008

Since this PhD project began in 2004, the present author has been affiliated with DREAM (Danish

Research Centre on Education and Advanced Media Materials), which is located at the Institute of

Literature, Media and Cultural Studies at the University of Southern Denmark. Research visits have

taken place at the Centre for Learning, Knowledge, and Interactive Technologies (L-KIT), the

Institute of Education at the University of Bristol and the institute formerly known as Learning Lab

Denmark at the School of Education, University of Aarhus, where I currently work as an assistant

professor.

Thus, debate games require teachers to balance the centripetal/centrifugal forces of gaming and teaching, to be able to reconfigure their discursive authority, and to orchestrate the multiple voices of a dialogical game space in relation to particular goals. These Bakhtinian perspectives provide a valuable analytical framework for describing the discursive interplay between different practices and knowledge aspects when enacting (debate) game scenarios. In addition to this, Bakhtin’s dialogical philosophy also offers an explanation of why debate games (and other game types) may be valuable within an educational context. One of the central features of multi-player games is that players are expected to experience a simultaneously real and imagined scenario both in relation to an insider’s (participant) perspective and to an outsider’s (co-participant) perspective. According to Bakhtin, the outsider’s perspective reflects a fundamental aspect of human understanding: In order to understand, it is immensely important for the person who understands to be located outside the object of his or her creative understanding – in time, in space, in culture. For one cannot even really see one's own exterior and comprehend it as a whole, and no mirrors or photographs can help; our real exterior can be seen and understood only by other people, because they are located outside us in space, and because they are others (Bakhtin, 1986: 7). As the quote suggests, every person is influenced by others in an inescapably intertwined way, and consequently no voice can be said to be isolated. Thus, it is in the interaction with other voices that individuals are able to reach understanding and find their own voice. Bakhtin also refers to the ontological process of finding a voice as “ideological becoming”, which represents “the process of selectively assimilating the words of others” (Bakhtin, 1981: 341). Thus, by teaching and playing debate scenarios, it is possible to support students in their process of becoming not only themselves, but also in becoming articulate and responsive citizens in a democratic society.

PRECONDITION for education

## at: wise

Their links are guilt by association

Daily **Kos 10**, daily weblog with political analysis on US current events from a liberal perspective, Kossack Lays the Smackdown on Tim Wise, Aug 21, <http://www.dailykos.com/story/2010/8/22/0916/52061>

So, in this story, you have a phenomenon which is clearly disadvantaging African Americans. The problem is that there is no evidence of racism. There are no racists to accuse. There is nobody practicing a supremacist ideology that posits black people are worth less, so they should be sold crappier loans. Whatever the individual attitudes of brokers, it's not likely to be the overwhelming case. It's not that "the effect/impact is racist," it's that the effect/impact is disproportionate by race, which means racial disadvantage. It's not "institutional action" that prompted sub-prime mortgage brokers to prowl for those in the most likely position to accept sub-prime lending conditions, or to have the least options in terms of available banking services. There were no rules involved, except how market actors usually behave. That's the problem with asserting a racist "effect/impact," i.e. outcome in an economic system in which the activity that may cause the greatest disparate impact may also be the most rational market response to current conditions. Often these can be self-fulfilling prophecies, as in the case of the "white flight" syndrome decades ago. It's just not accurate, though, to accuse mortgage brokers trying to snap up as many cheap, high-fee, high-commission sub-prime loans from predictable locations of racism. It's not the "institution" of lending, either -- unless you'd like to name the Federal Reserve for flooring interest rates, and the giant financial companies for selling Collateralized Debt Obligations in droves to foreign debt purchasers as white supremacists. It's systemic, but it isn't racist. It's disadvantaging, but not privileging. It's disparate, but not inherent. It's practical. It's how things work. It's the real world. It's the invisible hand that doesn't care for morality or justice, only seeking higher and higher return. So when well-meaning people try to get to an ideological point where these phenomena can be "proven racist," they'll never succeed. These things truly can't be. They can be proven to be significantly immoral, or unjust in certain situations, but not racist. These are two different qualifiers. That doesn't mean we can't effect changes, nor improve circumstances, or simply outlaw the kinds of natural market behaviors that create certain types of injustice, or remedy those injustices systemically until remedy is no longer necessary, but it does mean that we can't accuse the mortgage brokerage industry of racism in any meaningful way. We must be able to separate economic incentives from racial or cultural incentives --because we live in a system of mass, variegated economic incentives-- or we're no longer the reality-based community.

Wise’s reliance on black/white binaries is essentialist and his account of whiteness is wrong

[Renee **Martin**](http://www.womanist-musings.com/2010/11/www.womanist-musings.com) **10**, anti-racist, feminist blogger and freelancer, The Limitations of Tim Wise, November 29, <http://www.womanist-musings.com/2010/11/limitations-of-tim-wise.html>

As a Black woman, I am very aware that I am not Wise's target audience, in fact, he seeks to exploit my experience for his own financial gain, rather than to deeply educate those that read his books. My number one criticism of Wise, is his continual essentialism regarding a Black identity. Even though I understand his book was meant to be a 101 primer to those not aware of how Whiteness and indeed race operates in the U.S., his inability, or perhaps outright failure would be more accurate, to include an intersectional approach reduces what it means to be of color in a North American context. Black people belong in various categories: we are disabled, TLBG, poor, wealthy, educated, TAB, religious, non religious, male and female, gender queer etc,. To make a definitive description of how Black people experience race, without explaining that such marginalization quite often multiplies oppression is not only irresponsible, it erases members of the Black community to present a single mendacious narrative. One really glaring example is the complete erasure of trans women of colour that die each year. Race absolutely effects who lives and who dies, and yet Wise, to my knowledge has yet to raise this issue. Wise also has a tendency to reduce race relations to a Black/White binary. To be of colour in the U.S. is to be not White of non European descent. With the exception of a small passage on the fallacies in Disney's Pocahontas, Wise mainly framed racism as something Whites do to Blacks, rather than Whiteness as an institution that is harmful to every single person of colour. This is erasure and it ignores the hierarchies of power that support Whiteness, as well as ensures that people of colour are constantly fixated on each other, rather than united to bring an end to White supremacy. Social justice is hard work and it demands a full-time commitment and therefore, I completely understand when someone attempts to earn a living, even as they raise awareness to the multiple issues that plague our planet. It is highly problematic that a White man is earning a substantial living talking about the way that race effects people of colour. Wise of course covers this by discussing Whiteness, but the truth of the matter is, that you cannot talk about Whiteness without examining people of colour. He is essentially profiting from hundred of years of our history and taking on an expert status that is denied people of colour when we discuss our lived experiences. His very existence as White, educated male of class, TAB, cisgender, heterosexual privilege, means that he is affirming much of the very narrative that he seeks deconstruct. Wise makes White people feel safe. He gives them the appropriate liberal spin that never expects them to seek truth via the people most impacted by race. Each chapter of his book began with a James Baldwin quote, proving that people of colour exist for the purposes of appropriation, but never really to interact with, unless one is in a leadership role. One of the main problems with Wise's work is that it does not encourage those researching anti-racism to seek out the opinions of people of colour, thus once again turning Whiteness into the arbitrator. This normalizes oppression and further supports White supremacy. Wise does encourage readers to take on a subordinate role, but how believable is that when he continually fails to do so himself. Wise claims that it is his right to be forthright about race because he is fighting to end White supremacy,which he sees as harmful, not only to himself but to all people, but using the operating status of Whiteness to fight the battle cannot possibly disarm, much less eradicate this sickness. In the end, I think that Wise is very well aware that what he has to say has already been said and in fact argued infinitely better by people of colour. To really challenge privilege, one must first learn from the people that it impacts the most. Depending on Tim Wise to teach you about race means that you are not ready to move out of your comfort zone and really see racism for the pure evil that it is.

#### Authenticity tests shut down debate– it’s strategically a disaster

**SUBOTNIK 98**

Professor of Law, Touro College, Jacob D. Fuchsberg Law Center.

7 Cornell J. L. & Pub. Pol'y 681

Having traced a major strand in the development of CRT, we turn now to the strands' effect on the relationships of CRATs with each other and with outsiders. As the foregoing material suggests, **the central** CRT **message is not simply that minorities are being treated unfairly**, or even that individuals out there are in pain - assertions for which there are data to serve as grist for the academic mill - **but that the minority scholar himself or herself hurts and hurts badly**.

An important problem that concerns the very definition of the scholarly enterprise now comes into focus. **What can an academic** trained to [\*694] question and to doubt n72 **possibly say to Patricia Williams when effectively she announces, "I hurt bad"?** n73 **"No, you don't hurt"? "You shouldn't hurt"?** "Other people hurt too"? Or, most dangerously - and perhaps most tellingly - "What do you expect when you keep shooting yourself in the foot?" If the majority were perceived as having the well- being of minority groups in mind, these responses might be acceptable, even welcomed. And they might lead to real conversation. But, **writes Williams, the failure by those "cushioned within the invisible privileges of race and power**... to incorporate a sense of precarious connection as a part of our **lives is... ultimately obliterating**." n74

"Precarious." "Obliterating." **These words will clearly invite responses only from fools and sociopaths; they will, by effectively precluding objection, disconcert and disunite others**. **"I hurt," in academic discourse, has three broad though interrelated effects**. First, **it demands priority from the reader's conscience. It is for this reason that law review editors, waiving usual standards, have privileged a long trail of undisciplined - even silly** n75 **- destructive and, above all, self-destructive arti** [\*695] **cles.** n76 **Second, by emphasizing the emotional bond between those who hurt in a similar way, "I hurt" discourages fellow sufferers from abstracting themselves from their pain in order to gain perspective on their condition**. n77

[\*696] **Last, as we have seen, it precludes the possibility of open and structured conversation with others**. n78

[\*697] **It is because of this conversation-stopping effect** of what they insensitively call "first-person agony stories" **that Farber and Sherry deplore their use.** "The norms of academic civility hamper readers from challenging the accuracy of the researcher's account; it would be rather difficult, for example, to criticize a law review article by questioning the author's emotional stability or veracity." n79 Perhaps, a better practice would be to put the scholar's experience on the table, along with other relevant material, but to subject that experience to the same level of scrutiny.

If **through the foregoing rhetorical strategies CRATs succeeded in limiting academic debate**, why do they not have greater influence on public policy? **Discouraging white legal scholars from entering the national conversation about race**, n80 I suggest, **has generated a kind of cynicism in white audiences** which, in turn, has had precisely the reverse effect of that ostensibly desired by CRATs. **It drives the American public to the right and ensures that anything CRT offers is reflexively rejected.**

In the absence of scholarly work by white males in the area of race, of course, it is difficult to be sure what reasons they would give for not having rallied behind CRT. Two things, however, are certain. First, **the kinds of issues** raised by Williams **are too important** in their implications  [\*698]  for American life **to be confined to communities of color.** If the lives of minorities are heavily constrained, if not fully defined, by the thoughts and actions of the majority elements in society, **it would seem to be of great importance that white thinkers and doers participate in open discourse** to bring about change. Second, given the lack of engagement of CRT by the community of legal scholars as a whole, the discourse that should be taking place at the highest scholarly levels has, by default, been displaced to faculty offices and, more generally, the streets and the airwaves.

## turns mills

No try or die---1AC impact author demands pragmatism

Ferguson 4

RACIAL CONTRACT THEORY: A CRITICAL INTRODUCTION by Stephen C. Ferguson II Submitted to the Department of Philosophy and the Faculty of the Graduate School of the University of Kansas in partial fulfillment of the requirements for the degree of Doctor of Philosophy

Racial contract theory: A critical introduction

by Ferguson, Stephen C., Ii, Ph.D., UNIVERSITY OF KANSAS, 2004, 210 pages; 3153181

The outcome of The Racial Contract is quite simply what I have termed, Racial Contract Theory (RCT). There are five main components to RCT. First, to subject contractarianism to an ideological critique and expose the racist presuppositions of contract theorists from Thomas Hobbes through John Rawls. Second, to identify the origins of white supremacy as a political system in a Racial Contract between whites against non-whites. The third component, therefore, is an argument to show that being white - under the white supremacist polity - entails being endowed with white privilege, that is, material and psychological benefits. The fourth component of Mills' project is to demonstrate that race is a social construction created for the purpose of political rule over non-whites. And, lastly, Mills argues that the only historically feasible solution to the problem of white supremacy is liberal democratic capitalism.

## condition

#### Independently, conditions are not restrictions

Pashman, justice – New Jersey Supreme Court, 3/25/’63

(Morris, “ISIDORE FELDMAN, PLAINTIFF AND THIRD-PARTY PLAINTIFF, v. URBAN COMMERCIAL, INC., AND OTHERS, DEFENDANT,” 78 N.J. Super. 520; 189 A.2d 467; 1963 N.J. Super. LEXIS 479)

HN3A title insurance policy "is subject to the same rules of construction as are other insurance policies." Sandler v. N.J. Realty Title Ins. Co., supra, at [\*\*\*11] p. 479. It is within these rules of construction that this policy must be construed.

Defendant contends that plaintiff's loss was occasioned by restrictions excepted from coverage in Schedule B of the title policy. The question is whether the provision in the deed to Developers that redevelopment had to be completed [\*528] within 32 months is a "restriction." Judge HN4 Kilkenny held that this provision was a "condition" and "more than a mere covenant." 64 N.J. Super., at p. 378. The word "restriction" as used in the title policy cannot be said to be synonymous with a "condition." A "restriction" generally refers to "a limitation of the manner in which one may use his own lands, and may or may not involve a grant." Kutschinski v. Thompson, 101 N.J. Eq. 649, 656 (Ch. 1927). See also Bertrand v. Jones, 58 N.J. Super. 273 (App. Div. 1959), certification denied 31 N.J. 553 (1960); Freedman v. Lieberman, 2 N.J. Super. 537 (Ch. Div. 1949); Riverton Country Club v. Thomas, 141 N.J. Eq. 435 (Ch. 1948), affirmed per curiam, 1 N.J. 508 (1948). It would not be inappropriate to say that the word "restrictions," as used [\*\*\*12] by defendant insurers, is ambiguous. The rules of construction heretofore announced must guide us in an interpretation of this policy. I find that the word "restrictions" in Schedule B of defendant's title policy does not encompass the provision in the deed to Developers which refers to the completion [\*\*472] of redevelopment work within 32 months because (1) the word is used ambiguously and must be strictly construed against defendant insurer, and (2) the provision does not refer to the use to which the land may be put. As the court stated in Riverton Country Club v. Thomas, supra, at p. 440, "HN5equity will not aid one man to restrict another in the uses to which he may put his land unless the right to such aid is clear, and that restrictive provisions in a deed are to be construed most strictly against the person or persons seeking to enforce them." (Emphasis added)

Not a regulation—regulation is how you go about doing the thing, restriction is whether or not you can do it

Schackleford, justice – Supreme Court of Florida, 3/12/’17

(J., “ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION, *et al., Plaintiff in Error,* v. THE STATE OF FLORIDA, *Defendant in Error,”* 73 Fla. 609; 74 So. 595; 1917 Fla. LEXIS 487)

There would seem to be no occasion to discuss whether or not the Railroad Commissioners had the power and authority to make the order, requiring the three specified railroads running into the City of Tampa to erect a union passenger station in such city, which is set out in the declaration in the instant case and which we have copied above. [\*\*\*29] It is sufficient to say that under the reasoning and the authorities cited in State v. Atlantic Coast Line R. Co., 67 Fla. 441, 458, 63 South. Rep. 729, 65 South. Rep. 654, and State v. Jacksonville Terminal [\*631] Co., supra, it would seem that HN14the Commissioners had power and authority. The point which we are required to determine is whether or not the Commissioners were given the authority to impose the fine or penalty upon the three railroads for the recovery of which this action is brought. In order to decide this question we must examine Section 2908 of the General Statutes of 1906, which we have copied above, in the light of the authorities which we have cited and from some of which we have quoted. It will be observed that the declaration alleges that the penalty imposed upon the three railroads was for the violation of what is designated as "Order No. 282," which is set out and which required such railroads to erect and complete a union depot at Tampa within a certain specified time. If the Commissioners had the authority to make such order, it necessarily follows that they could enforce a compliance with the same by appropriate proceedings in the courts, but [\*\*\*30] it does not necessarily follow that they had the power and authority to penalize the roads for a failure to comply therewith. That is a different matter. HN15Section 2908 of the General Statutes of 1906, which originally formed Section 12 of Chapter 4700 of the Laws of Florida, (Acts of 1899, p. 86), expressly authorizes the imposition of a penalty by the Commissioners upon "any railroad, railroad company or other common carrier doing business in this State," for "a violation or disregard of any rate, schedule, rule or regulation, provided or prescribed by said commission," or for failure "to make any report required to be made under the provisions of this Chapter," or for the violation of "any provision of this Chapter." It will be observed that the word "Order" is not mentioned in such section. Are the other words used therein sufficiently comprehensive to embrace an order made by the Commissioners, such as the one now under consideration? [\*632] It could not successfully be contended, nor is such contention attempted, that this order is covered by or embraced within the words "rate," "schedule" or "any report,' therefore we may dismiss these terms from our consideration and [\*\*\*31] direct our attention to the words "rule or regulation." As is frankly stated in the brief filed by the defendant in error: "It is admitted that an order for the erection of a depot is not a 'rate' or 'schedule' and if it is not a 'rule' or 'regulation' then there is no power in the Commissioners to enforce it by the imposition of a penalty." It is earnestly insisted that the words "rule or regulation" are sufficiently comprehensive to embrace such an order and to authorize the penalty imposed, and in support of this contention the following authorities are cited: Black's Law Dictionary, defining regulation and order; Rapalje & Lawrence's Law Dictionary, defining rule; Abbott's Law Dictionary, defining rule; Bouvier's Law Dictionary, defining order and rule [\*\*602] of court; Webster's New International Dictionary, defining regulation; Curry v. Marvin, 2 Fla. 411, text 515; In re Leasing of State Lands, 18 Colo. 359, 32 Pac. Rep. 986; Betts v. Commissioners of the Land Office, 27 Okl. 64, 110 Pac. Rep. 766; Carter V. Louisiana Purchase Exposition Co., 124 Mo. App. 530, 102 S.W. Rep. 6, text 9; 34 Cyc. 1031. We have examined all of these authorities, as well as those cited by the [\*\*\*32] plaintiffs in error and a number of others, but shall not undertake an analysis and discussion of all of them. While it is undoubtedly true that the words, rule, regulation and order are frequently used as synonyms, as the dictionaries, both English and law, and the dictionaries of synonyms, such as Soule's show, it does not follow that these words always mean the same thing or are interchangeable at will. It is well known that the same word used in different contexts may mean a different thing by virtue of the coloring which the word [\*633] takes on both from what precedes it in the context and what follows after. Thus in discussing the proper constructions to be placed upon the words "restrictions and regulations" as used in the Constitution of this State, then in force, Chap. 4, Sec. 2, No. 1, of Thompson's Digest, page 50, this court in Curry v. Marvin, 2 Fla. 411, text 415, which case is cited to us and relied upon by both the parties litigant, makes the following statement: "The word restriction is defined by the best lexicographers to mean limitation, confinement within bounds, and would seem, as used in the constitution, to apply to the amount and to the time [\*\*\*33] within which an appeal might to be taken, or a writ of error sued out. The word regulation has a different signification -- it means method, and is defined by Webster in his Dictionary, folio 31, page 929, to be 'a rule or order prescribed by a superior for the management of some business, or for the government of a company or society.' This more properly perhaps applies to the mode and form of proceeding in taking and prosecuting appeals and writs of error. By the use of both of those terms, we think that something more was intended than merely regulating the mode and form of proceedings in such cases." Thus, in Carter v. Louisiana Purchase Exposition Co., 124 Mo. App. 530, text 538, 102 S.W. Rep. 6, text 9, it is said, "The definition of a rule or order, which are synonymous terms, include commands to lower courts or court officials to do ministerial acts." In support of this proposition is cited 24 Amer. & Eng. Ency. of Law 1016, which is evidently an erroneous citation, whether the first or second edition is meant. See the definition of regulate and rule, 24 amer. & Eng. Ency. of Law (2nd Ed.) pages 243 to 246 and 1010, and it will be seen that the two words are not always [\*\*\*34] synonymous, much necessarily depending upon the context and the sense in which the words are used. Also see the discussion [\*634] of the word regulation in 34 Cyc. 1031. We would call especial attention to Morris v. Board of Pilot Commissioners, 7 Del. chan. 136, 30 Atl. Rep. 667, text 669, wherein the following statement is made by the court: "These words 'rule' and the 'order,' when used in a statute, have a definite signification. They are different in their nature and extent. A rule, to be valid, must be general in its scope, and undiscriminating in its application; an order is specific and not limited in its application. The function of an order relates more particularly to the execution or enforcement of a rule previously made." Also see 7 Words & Phrases 6271 and 6272, and 4 Words & Phrases (2nd Ser.) 419, 420. As we held in City of Los Angeles v. Gager, 10 Cal. App. 378, 102 Pac. Rep. 17, "The meaning of the word 'rules' is of wide and varied significance, depending upon the context; in a legal sense it is synonymous with 'laws.'" If Section 2908 had contained the word order, or had authorized the Commissioners to impose a penalty for the violation of any order [\*\*\*35] made by them, there would be no room for construction. The Georgia statute, Acts of 1905, p. 120, generally known as the "Steed Bill," entitled "An act to further extend the powers of the Railroad Commission of this State, and to confer upon the commission the power to regulate the time and manner within which the several railroads in this State shall receive, receipt for, forward and deliver to its destination all freight of every character, which may be tendered or received by them for transportation; to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said commission in the execution of these powers, and for other purposes," expressly authorized the Railroad Commissioners "to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said Commision." [\*635] See Pennington v. Douglas, A. & G. Ry. Co., 3 Ga. App. 665, 60 S.E. Rep. 485, which we cited with approval in State v. Atlantic Coast Line R. Co., 56 fla. 617, text 651, 47 South. Rep. 969, 32 L.R.A. (N.S.) 639. Under the reasoning in the cited authorities, especially State v. Atlantic Coast Line R. Co., [\*\*\*36] supra, and Morris v. Board of Pilot Commissioners, we are constrained to hold that the fourth and eighth grounds of the demurrer are well founded and that HN16the Railroad Commissioners were not empowered or authorized to impose a penalty upon the three railroads for failure to comply with the order for the erection of a union depot.

## !!!! cost – benefit good: decision making

#### Environment justice must be approached through CONCRETE POLICY analysis that WEIGHS disadvantages– only SWITCH SIDE works

Foreman 98

Christopher Foreman is a nonresident senior fellow in Governance Studies. Since 2000, he has also been a professor and director of the social policy program at the University of Maryland’s School of Public Policy. His research focuses on the politics of health, race, environmental regulation, government reform, and domestic social policy

Ph.D. (1980), A.M. (1977), A.B. (1974), Harvard University

The Promise and Peril of Environmental Justice

More frequent resort to a rationalizing, if not solely economic, perspective would encourage minority and low-income citizens and community leaders to think more carefully about priority-setting and myriad tradeoffs. Might widespread successes of NIMBY (not in my back yard) initiatives keep older and dirtier pollution sources active longer and thus adversely affect minority and low-income persons living adjacent to those sources? By the same token, does local insistence on full treatment at some Superfund sites (that is, the obsession with Breyer's "last ten percent") mean that risks elsewhere that might have been addressed under a more limited or flexible regime will not get attended to at all? Such questions cannot be answered here, but the disinclination even to pose them is troubling. That a "nobody should suffer" position advocating maximum citizen engagement could have perverse effects will be painful for many even to consider. But honestly confronting the reality that no environmental amenity (with the possible exception of planetary gravity) is equally distributed may help make citizens more likely to ask hard questions about which inequities matter most. A more careful and comprehensive set of environmental equity comparisons than has been produced to date would probably conclude that there is reason for cheer on some fronts. After all, many Native Americans residing on tribal land, along with rural blacks, doubtless breathe far cleaner air than many far wealthier city dwellers. Of course, once broader social equity concerns—the real motivation for much environmental justice advocacy—are factored in, any clean air advantage may appear insignificant. If Albert Nichols is right that failure to set environmental priorities based on risk has only worsened the inequities faced by minority and low-income communities, then there is even more compelling reason for greater reliance on a rationalizing approach. Writes Nichols in a direct critique of Bullard: If we accept the argument that the existing (politicized] approach has paid insufficient attention to the health and environmental risks faced by minority communities, what does that then say about a risk-based alternative? A strategy that emphasized attacking the largest and most easily reduced risks first would appear to represent a major gain for minority communities. To the extent that such communities bear unusually high risks as a result of past discrimination or other factors, a risk-based approach would redirect more resources to these communities. Indeed, a risk-based approach would give highest priority to attacking precisely the kinds of problems that most concern Bullard.23 If conventional environmental justice advocacy cannot confront risk magnitudes honestly, it cannot help much in the assessment and management of tradeoffs, either of the risk/risk or risk/benefit varieties. The notion that attacking some risks may create others is largely foreign to environmental justice—beyond a fear that attacking the risk of poverty with industrial jobs may expose workers to hazardous conditions. A focus on community inclusion, although necessary to the ultimate acceptability of decisions, offers no automatic or painless way to sort through tradeoffs.24 When confronted with choices posing both risks and benefits— such as a proposed hazardous waste treatment facility that would create jobs, and impose relatively low risks, in a needy area—environmental justice offers, along with disgust that such horrendous choices exist, mainly community engagement and participation. But because such situations tend to stimulate multiple (and often harshly raised) local voices on both sides of the issue, activists are at pains to decide where (besides additional participation and deliberation) the community's interest lies. Because an activist group will be in close touch with both the fear of toxics and the hunger for economic opportunity, the organization itself may be torn. The locally one-sided issue presents far preferable terrain for activists. It should surprise no one that activists are anxious to deemphasize community-level disagreement of this sort. Nor is it surprising to learn from the head of a prominent environmental justice organization that her group tries to avoid situations that pose precisely these locally polarizing tradeoffs.25 Faced with such tensions, environmental justice partisans may simply retreat into cant, attacking a system that facilitates "environmental blackmail," allowing disadvantaged communities to become "hooked on toxics."26

# 1NR

## ethics

#### No one died and there’s no measurable radiation

Tom Blees 8, president of the Science Council for Global Initiatives, member of the selection committee for the Global Energy Prize, on the board of The World Energy Forum, “Prescription for the Planet”, <http://www.thesciencecouncil.com/pdfs/P4TP4U.pdf>

Few would dispute that nuclear power can and should be made even safer than it has been in the past. But as it stands today, nuclear has a stellar safety record. With the unfortunate exception of Chernobyl, which resulted directly in 56 deaths and in deleterious consequences to many others, the nuclear power industry has been far more benign than any other type of power generation. Even adding Chernobyl into the mix (with its faulty plant design that was only used in Russia and is no longer employed), far more people have been injured and killed due to hydropower, the oil industry, and even natural gas. Not a single person has ever been killed due to a radiation accident in the entire history of the U.S. commercial nuclear power industry. Yet the very week I wrote this paragraph over a hundred coal miners died in a mining accident in Russia. Granted, solar and wind have a fairly harmless record so far, though a lot of birds (and even more bats) would eagerly take issue with me on that point. Which brings us back to coal. A coalition of national environmental groups called Clear the Air commissioned a study from Abt Associates, one of the largest government and business research and consulting firms in the world. This firm has provided the Environmental Protection Agency (EPA) and the Bush administration with analysis of many of the agency’s air quality programs. Knowing the track record of Bush’s EPA and its antipathy to alternative energy, one might reasonably suspect that this firm’s conclusions would hardly be slanted on the side of environmentalists. Thus their conclusion may surprise you: Some 24,000 people die prematurely in the United States each year just from the effects of soot from coal-fired power plants, by an average of 14 years. The study also pegged the annual total health costs associated with soot from power plants at over 167 billion dollars!111 We’re just talking about soot here, not the acid rain, heavy metals and other nasty materials scattered through our environment by both smokestack emissions and solid ash disposal. Nor are we even considering the effects of the staggering carbon dioxide emissions that are the main contributor to global warming. So what would it take to get disingenuous demagogues to quit harping about Three Mile Island? Its monolithic concrete building with the rounded top is called a containment building, as seen at nuclear plants around the world. The reason they call it that is because it’s meant to contain radioactive material in the event of an accident. Chernobyl didn’t have one. TMI did, and it did its job. The only radiation released at TMI was a purposeful venting of some readily dispersed gases, and that was on hindsight considered to have been a controversial (in terms of P.R.) and perhaps unnecessary precaution. Antie groups tried their best to allege harm due to this most celebrated of U.S. nuclear accidents, but were unable to come up with anything that could stand the scrutiny of science and the law. The area around TMI was sampled for every possible sort of radioactivity more than any single patch of ground in history, yet all that anyone was able to come up with were unsupported allegations of nonspecific harm.

#### It can’t happen at Vogtle

Biello 3/23/11

David Biello has been covering energy and the environment for nearly a decade, the last four years as an associate editor at Scientific American. He also hosts 60-Second Earth, a Scientific American podcast covering environmental news, and is working on a documentary with Detroit Public Television on the future of electricity.

<http://www.scientificamerican.com/article.cfm?id=new-nuclear-designs-balance-safety-and-cost>

For example, the AP1000s being built in Georgia boast "passive" safety features—safety technology that kicks in with or without human intervention or electricity. In the case of the Westinghouse AP1000 design that means cooling water sits above the reactor core and, in the event of a potential meltdown like at Fukushima Daiichi or Three Mile Island in Pa., will, with the opening of a heat-sensitive valve, simply flow water into the reactor, dousing the meltdown. "Never has so much money been spent to prove that water runs downhill," Westinghouse spokesman Vaughn Gilbert told Scientific American in 2009.

Further, although the thick steel vessel containing the nuclear reactor is encased in a further shell of 1.2-meter-thick concrete, that shell is surrounded by a building that is open to the sky. Should the concrete containment vessel begin to heat up during a meltdown, natural convection would pull in cooling air.

## impact

#### No water impact

Jack **Spencer and** Aurelian **Braun 12**, Jack Spencer is Research Fellow in Nuclear Energy at Heritage, Aurelian is a member of the Young Leaders Program at Heritage, “Powering America Vignette: What is a Cooling Tower?”, June 22, <http://blog.heritage.org/2012/06/22/powering-america-vignette-what-is-a-cooling-tower/>

There has been some controversy in the past regarding just how much water nuclear power plants actually use. For example, the Susquehanna plant in Luzerne County, Pennsylvania, uses about 31 million gallons of water per day. To put that into perspective, 27.4 billion gallons of water per day flow from the Susquehanna River into the Chesapeake Bay. This means that the plant uses a whopping 0.07 percent of the water that flows through the river each day. A typical nuclear plant supplies over 700,000 homes with energy. The plant consumes between 13 and 23 gallons of water per household; the average household uses around 94 gallons of water each day.

#### Multi-site studies disprove the link between reactors and cancer – huge doses would be required

Laurier, Institute for Protection and Nuclear Safety, Fontenay-aux-Roses, France, and Grosche, Federal Office for Radiation Protection, Institute for Radiation Hygiene, Oberschleissheim, Germany, and Hall, Department of Medical Epidemiology, Karolinska Institutet, Sweden, 2002

(Dominque, Bernd, and Per, “Risk of Childhood Leukaemia in the Vicinity of Nuclear Installations: Findings and Recent Controversies,” Acta Oncologica Vol. 41, No. 1, pp. 14–24, http://informahealthcare.com/doi/pdf/10.1080/028418602317314019)

Since 1984, **a large number of cluster studies to evaluate the risk of childhood leukaemia have been conducted near nuclear installations**. These studies have generally been small, including only a few cases, and most of them show no excess of leukaemia among the young people living in the vicinity of these installations. An excess incidence of leukaemia exists near some nuclear installations, at least for the reprocessing plants at Sella eld and Dounreay and the nuclear power plant at Krummel. Nonetheless, **excesses of leukaemia have also been identified far away from any nuclear installations**, **and the results of the multi-site studies invalidate the hypothesis of an increased risk of leukaemia related to radioactive discharge**.

Some investigators in England and Germany observed an elevated risk among the youngest children living near nuclear plants or potential nuclear plants. These findings are intriguing and still seek an explanation (88, 109). The hypothesis of an infectious aetiology associated with population mixing needs to be investigated further.

The identification of a local excess of cancer cases, possibly associated with ionizing radiation, always receives substantial media coverage, and communication about clusters is difficult. To communicate cancer risks associated with ionizing radiation is complicated since the risk perception of the general public is hampered by an opinion that ionizing radiation causes immediate and harmful effects regardless of dose. **Few individuals realize that the excess mortality from solid cancers among A-bomb survivors in Hiroshima and Nagasaki is 400–500 cases**. Recent examples show the importance of recalling the current epidemiological knowledge and of using systematic recording of cases to replace the alleged excesses in a more general framework. Some elements should also be suggested from the recent French and German experiences in order to reinforce credibility in the results. In particular, a plural composition for commissions, including operators, governmental and non-governmental experts, should be proposed to facilitate direct communication with the general population.

#### That is true peer-reviewed evidence and should be preferred: Multi-site studies are the only way to know

JOHN E. BURRIS, Chair, Burroughs Wellcome Fund, Research Triangle Park, North Carolina, et al

JOHN C. BAILAR, III, University of Chicago (retired), Washington, DC

HAROLD L. BECK, Environmental Measurements Laboratory (retired), New York, New York

ANDRE BOUVILLE, National Cancer Institute (retired), Bethesda, Maryland

PHAEDRA S. CORSO, University of Georgia, Athens

PATRICIA J. CULLIGAN, Columbia University, New York, New York

PAUL M. DELUCA, JR., University of Wisconsin, Madison

RAYMOND A. GUILMETTE, Lovelace Respiratory Research Institute, Albuquerque, New Mexico

GEORGE M. HORNBERGER, Vanderbilt Institute for Energy and Environment, Nashville, Tennessee

MARGARET KARAGAS, Dartmouth College, Hanover, New Hampshire

ROGER KASPERSON, Clark University (retired), Worcester, Massachusetts

JAMES E. KLAUNIG, Indiana University, Bloomington

TIMOTHY MOUSSEAU, University of South Carolina, Columbia

SHARON B. MURPHY, University of Texas Health Science Center (retired), Washington,

DC ROY E. SHORE, Radiation Effects Research Foundation, Hiroshima, Japan

DANIEL O. STRAM, University of Southern California, Los Angeles

MARGOT TIRMARCHE, Institute of Radiological Protection and Nuclear Safety, Fontenay-aux-Roses, France

LANCE WALLER, Emory University, Atlanta, Georgia

GAYLE E. WOLOSCHAK, Northwestern University, Chicago, Illinois

JEFFREY J. WONG, California Environmental Protection Agency,Sacramento

2012

(National Research Council, National Academy of Sciences, “Analysis of Cancer Risks in Populations Near Nuclear Facilities: Phase I,” http://pbadupws.nrc.gov/docs/ML1225/ML12254A165.pdf)

The statistical power of an epidemiologic study of cancer risks in populations near nuclear facilities is likely to be low because (a) the size of the estimated risks from the reported radioactive efflu- ent releases from nuclear facilities is likely to be small and (b) the size of the populations most likely to be exposed (that is, those in close proximity to a nuclear facility, for example, within an 8-km radius) is relatively small. **This implies that a large-scale multisite study** with as many years of observations as possible **is needed to reliably assess the potential risks**.

## vogtle

#### The vogtle debate puts them in a double bind – Scenario A – they ease licensing requirements on companies as per the we meet on T which results in massive expansion of nuclear and it takes out the whole aff

Spencer, research fellow in nuclear energy – Heritage Foundation, 2/15/’11

(Jack, <http://www.heritage.org/research/reports/2011/02/a-big-future-for-small-nuclear-reactors>)

One of the more talked about highlights of the President’s energy budget is his growing support for small modular reactors (SMRs). This includes $30 million for research and development and $67 million for licensing activities. While the President should be commended for recognizing the potential of SMRs, his approach unfortunately misses the mark.

Research and Development, Yes; Commercialization, No

The federal government does have a legitimate role to play in providing some basic research and development money to fund projects that may hold potential but are too risky for the private sector. And the President’s nuclear energy budget does provide basic R&D in other accounts such as the Nuclear Energy Enabling Technologies (NEET) program, which is slated to get $97.364 million. NEET is charged with investigating crosscutting technologies with applicability to multiple reactor designs, including small, modular reactors.

Indeed, the emergence of SMRs can in part be attributed to basic government R&D. Often ignored, however, is that this research was not focused on commercial energy production but rather on national security requirements. Entrepreneurs and investors took that national security research and spun off commercial enterprises.

Today these companies are moving that technology from government labs and into the marketplace. Testament to this progress is that the U.S. Nuclear Regulatory Commission is expecting six advanced reactor design applications to be submitted some time in the next 18–24 months. These include small light water reactors, high-temperature gas-cooled rectors, and liquid-metal-cooled fast reactors.

What this all makes clear is that these programs are well beyond the basic R&D stage and into the commercialization process. Thus, providing $30 billion in SMR R&D seems to be simply using taxpayer money to offset the costs of doing business for a handful of companies that have already benefited from significant public investment.

Yet many of these companies insist that without such public support, they cannot move forward. Such conclusions are based on one or a combination of three things:

The underlying technology is economically dubious. This may well be the case, but is yet unknown. The only way to determine the economic viability of SMRs is to introduce them into the marketplace. Doing so should not, however, be a public policy decision and should instead be left up to the private sector.

Companies want subsidies or preferential treatment to increase profits. This too may be accurate, but it should not be sufficient to stop private investment if the underlying economics are credible. And given the significant private investments already made absent specific federal SMR R&D programs, one can conclude that investors are confident in the economic potential of SMRs.

Regulatory risk outweighs the potential financial benefit of greater investment. New nuclear designs cannot be introduced into the marketplace without a regulatory framework. **The absence of such a framework makes SMR investment prohibitively risky** without some way to offset that risk, which the federal R&D program would partially do.

A lack of research and development or not having a specific Department of Energy (DOE) program dedicated to SMRs is not the problem. Establishing them is merely a symptom of the problem: the absence of a predictable, fair, and efficient regulatory framework to allow the introduction of SMRs into the marketplace.

Establishing a Regulatory Framework

The Obama budget essentially acknowledged the regulatory problem in his budget, which requests $67 million for DOE to work on licensing technical support for small light water reactors. While the intent is correct, the approach is wrong. The Administration is relying on the same bureaucratic, taxpayer-funded process that is stifling large reactor certification when it should use this opportunity to establish a new, more efficient licensing pathway.

Instead of paying for DOE bureaucrats to get in the way of commercial progress, the Administration should commit to ensuring that the U.S. Nuclear Regulatory Commission is fully equipped and prepared to regulate new reactor designs. This should include high-temperature gas-cooled reactors and liquid-metal-cooled fast reactors as well as small light water designs. This would provide a strong regulatory foundation for each of the expected design certification applications. The DOE should have no role in the process. If a company wants to get its reactor design certified for commercial use in the U.S., it should be able to go straight to the NRC for that service.

Such an approach would substantially decrease the risk associated with getting designs certified, which in turn would alleviate the need for public support. Then, instead of seeking taxpayer funds to offset regulatory risk, reactor designers could develop investors to support the certification process.

Build the Framework and They Will Come

Nuclear energy is already clean, safe, and affordable. Introducing small reactors could make it transformational. But the federal government should not drive the process. It should be supported by the market. If the underlying technology is as strong as many of us believe it to be, the federal government needs only to provide a predictable, stable, efficient, and fair regulatory environment. The rest will happen on its own—or it won’t.

# 2NR

## card

#### And we define it in the context of production – that’s key

Haneman, justice – Superior Court of New Jersey, Appellate Division, 12/4/’59

(J.A.D., “RUSSELL S. BERTRAND, ET AL., PLAINTIFFS-RESPONDENTS, v. DONALD T. JONES, ET AL., DEFENDANTS-APPELLANTS,” 58 N.J. Super. 273; 156 A.2d 161; 1959 N.J. Super. LEXIS 569)

HN4 In ascertaining the meaning of the word "restrictions" as here employed, it must be considered in context with the entire clause in which it appears. It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.

HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that a word is known from its associates. Words of general and specific import take color from each other when associated together, and thus the word of general significance is modified by its associates of restricted sense. 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."