# 1nc

#### ‘Restrictions’ must be direct and immediate limitations on freedom – otherwise it is simply a regulation

CJ Veeraswami (Former Chief Justice of the Madras High Court, India) 1966 “T.M. Kannappa Mudaliar And Ors. vs The State Of Madras” Majority opinion,

http://www.indiankanoon.org/doc/838831/

The collection of a toll or a tax for the use of a road or for the use of a bridge or for the use of an aerodrome is no barrier or burden or deterrent to traders, who, in their absence, may have to take a longer or less convenient or more expensive route. Such compensatory taxes are no hindrance to anybody's freedom so long as they remain reasonable; but they could of course, be converted into a hindrance to the freedom of trade. If the authorities concerned really wanted to hamper anybody's trade they could easily raise the amount of tax or toll to an amount which would be prohibitive or deterrent or create other impediments which instead of facilitating trade and commerce would hamper them. It is here that the contrast, between 'freedom' (Article 301) and 'restrictions' (Articles 302 and 304) clearly appears; that which in reality facilitates trade and commerce is not a restriction, and that which in reality hampers or burdens trade and commerce is a restriction. It is the reality or substance of the matter that has to be determined. It is not possible apriori to draw a dividing line between that which would really be a charge for a facility provided and that which would really be a deterrent to a trade, but the distinction, if it has to be drawn is real and clear. For the tax to become a prohibited tax it has to be a direct tax the effect of which is to hinder the movement part of trade. So long as a tax remains compensatory or regulatory it cannot operate as a hindrance. 12. Subba Rao, J. as he then was, concurring with Das, J. took substantially the same view and observed (at page 1430);: The word ' freedom ' is not capable of precise definition, but it can be stated what would infringe or detract from the said freedom. Before a particular law can be said to infringe the said freedom, it must be ascertained whether the impugned provision operates as a restriction impeding the free movement of trade or only as a regulation facilitating the same. Restrictions obstruct the freedom, whereas regulations promote it. Police regulations, though they may superficially appear to restrict the freedom of movement, in fact provide the necessary conditions for the free movement. Regulations such as provision for lighting, speed, good condition of vehicles, timings, rule of the road and similar others, really facilitate the freedom of movement rather than retard it. So too, licensing system with compensatory fees would not be restrictions but regulatory provisions;, for without it, the necessary lines of communication such as roads, waterways and airways, cannot effectively be maintained and the freedom declared may in practice turn out to be an empty one....It is for the Court in a given case to decide whether a provision purporting to regulate trade is in fact a restriction on freedom. The further observations as to what was meant by Restrictions in Article 302 are (at page 1433): But the more difficult question is, what does the word " restrictions " mean in Article 302? The dictionary meaning of the word " restrict" is "to confine, bound, limit." Therefore any limitations placed upon the freedom is a restriction on that freedom. But the limitation must be real, direct and immediate, but not fanciful, indirect or remote....Of all the doctrines evolved in my view, the doctrine of ' direct and immediate effect' on the freedom would be a reasonable solvent to the difficult situation that might arise under our Constitution. If a law, whatever may have been its source, directly and immediately affects the free movement of trade, it would be restriction on the said freedom. But a law which may have only indirect and remote repercussions on the said freedom cannot be considered to be a restriction on it. 13. Subba Rao, J., as he then was summed up his views in the following words (at page 1436): The foregoing discussions may be summarised in the following propositions : (1) Article 301 declares a right of free movement of trade without any obstructions by way of barriers, inter-State or intra-State or other impediments operating as such barriers. (2) The said freedom is not impeded, but on the other hand, promoted by regulations creating conditions for the free movement of trade, such as, police regulations, provision for services, maintenance of roads, provision for aerodromes, wharfs, etc. with or without compensation. (3) Parliament may by law impose restrictions on such freedom in the public interest and the said law can be made by virtue of any entry with respect whereof Parliament has power to make a law. (4) The State also, in exercise of its legislative power, may impose similar restrictions, subject to the two conditions laid down in Article 304 (b) and subject to the Proviso mentioned therein. (5) Neither Parliament nor the State Legislature can make a law giving preference to one State over another or making discrimination between one State and another, by virtue of any entry in the Lists, infringing the said freedom. (6) This ban is lifted in the case of Parliament for the purpose of dealing with situations arising out of scarcity of goods in any part of the territory of India and also in the case of a State under Article 304 (h), subject to the conditions mentioned therein. And (7) the State can impose a non-discriminatory tax on goods imported from other States or the Union territory to which similar goods manufactured or produced in the State are subject. 14. It is thus well established that regulatory provisions which do not directly or immediately impede or burden the free movement of trade, commerce and intercourse but provide or intend to provide facilities for trade, commerce and intercourse are not restrictions within the meaning of Part XIII and are compatible with the freedom of trade declared by Article 301. Atiabari Tea Co., Ltd. v. State of Assam , and Automobile Transport Ltd. v. State of Rajasthan , are both cases of imposition of tax. The first was concerned with the Assam Taxation (on Goods carried by Roads or Inland Waterways) Act, 1954,, which was successfully attacked on the ground that it violated Article 301 and was not saved by Article 304 (b). The Act imposed a tax on specified goods transported by road or inland waterways in the State of Assam. The majority in that case held that the Act put a direct restriction on the freedom of trade and, since in doing so, had not complied with the provisions of Article 304 (b), it must be declared to be void. In the second case the Rajasthan Motor Vehicles Taxation Act, 1951, was impugned as violating Article 301. But the majority did not accept the contention on the view that the Act was merely a regulatory measure imposing compensatory taxes for the use of trading facilities. The scope of Article 301 was again in the light of the earlier decisions referred to in Khyerbari Tea Co. v. State of Assam , where the Assam Taxation (On goods carried by Roads or Inland Waterways) Act as amended after Atiabari Tea Co. Ltd. v. State of Assam , was attacked on various grounds but without success. 15. As already seen, the distinction between a restriction and a regulation is fine but real, though the dividing line is not capable in the nature of things of a comprehensive and satisfactory definition. The test, broadly speaking, is whether the impugned provisions lay a direct and immediate burden on the movement of trade, commerce and intercourse or are intrinsically beneficial to and provide, in the ultimate analysis, facilities for better conduct of trade, commerce and intercourse. Observed Das, J., in Automobile Transport Ltd. v. State of Rajasthan

#### Violation – The aff reduces only indirect limitations on production

#### Vote neg:

#### 1. Limits – infinite number of indirect limitations on ability to produce energy – simply determining net effect is an unreasonable burden that mixes burdens.

#### 2. Precise limits for this term are crucial to informed analysis

Eric Heinze (Senior Lecturer in Law, University of London, Queen Mary. He has held fellowships from the Fulbright Foundation and the French and German governments. He teaches Legal Theory, Constitutional Law, Human Rights and Public International Law. JD Harvard) 2003 “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

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### 1nc interpretation/links

#### The resolution indicates affs should advocate topical government change

**Ericson 3** (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.

**Violation – the aff does not defend the implementation of the plan and garners advantages off of the 1ac’s representations**

#### Specific, limited resolutions ensure mutual ground which is key to sustainable controversy without sacrificing creativity or openness

**Steinberg & Freeley 8** \*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law, AND \*\*David L. Steinberg , Lecturer of Communication Studies @ U Miami, Argumentation and Debate: Critical Thinking for Reasoned Decision Making pp45-

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.

**Stasis point key—they make debate one-sided because any self-defense we raise is itself subject to psychoanalytic doubt. Only our framework maintains productive contestation**

Diane Perpich 5, Professor of Philosophy at Vanderbilt, 2005, “Figurative Language and the "Face" in Levinas's Philosophy,” Philosophy & Rhetoric, Vol. 38, No. 2, p. 103-121

Levinas's hesitations about the value of psychoanalysis—indeed, what might be called his allergic reactions to psychoanalysis—are similarly based. Psychoanalysis, he writes, "casts a basic suspicion on the most unimpeachable testimony of self-consciousness" (1987b, 32). Psychological states in which the ego seems to have a "clear and distinct" grasp of itself are reread by psychoanalysis as symbols for a "reality that is totally inaccessible" to the self and that is the expression of "a social reality or a historical influence totally distinct from its [the ego's] own intention" (34). Moreover, all of the ego's protests against the interpretations of analysis are themselves subject to further analysis, leaving no point exterior to the analysis: "I am as it were shut up in my own portrait" (35). Psychoanalysis threatens an infinite regress of meaning, a recursive process that leads from one symbol to another, from one symptom to another with no end in sight and no way to break into or out of the chain of signifiers in the name of a signified. "The real world is transformed into a poetic world, that is, into a world without beginning in which one thinks without knowing what one [End Page 111] thinks" (35). Put less poetically, Levinas's worry is that psychoanalysis furnishes us with no fixed point or firm footing from which to launch a critique and to break with social and historical determinations of the psyche in order to judge society and history and to call both to account. Indeed, his uncharacteristic allusion to "clear and distinct" ideas betrays his intention: to seek, against both religious and psychoanalytic participations, for a relationship in which the ego is an "absolute," "irreducible" singularity, within a totality but still separate from it, that is, still capable of a relation with exteriority. To seek such a relation is, Levinas says, "to ask whether a living man [sic] does not have the power to judge the history in which he is engaged, that is, whether the thinker as an ego, over and beyond all that he does with what he possesses, creates and leaves, does not have the substance of a cynic" (35). The naked being who confronts me with his or her alterity, the naked being that I am myself and whose being "counts as such" is now naked not with an erotic nudity but with the nudity of a cynic who has thrown off the cloak of culture in order to present him- or herself directly and "in person" through "this chaste bit of skin with brow, nose, eyes, and mouth" (41).

Levinas picks up the thread of this worry about psychoanalysis in "Ethics and Discourse," the main section of "The Ego and the Totality." To affirm humankind as a power to judge history, he claims, is to affirm rationalism and to reject "the merely poetic thought which thinks without knowing what it things, or thinks as one dreams" (40). The impetus for psychoanalysis is philosophical, Levinas admits; that is, it shares initially in this affirmation of rationalism insofar as it affirms the need for reflection and for going "underneath" or getting behind unreflected consciousness and thought. However, if its impetus is philosophical, its issue is not insofar as the tools that it uses for reflection turn out to be "some fundamental, but elementary, fables . . . which, incomprehensibly, would alone be unequivocal, alone not translate (or mask or symbolize) a reality more profound than themselves" (40). Psychoanalysis returns one, then, to the irrationalism of myth and poetry rather than liberating one from them. It resubmerges one within the cultural and historical ethos and mythos in a way that seems to Levinas to permit no end to interpretation and thus no power to judge. He imagines psychoanalysis as a swirling phantasmagoria in which language is all dissimulation and deception. "One can find one's bearings in all this phantasmagoria, one can inaugurate the work of criticism only if one can begin with a fixed point. The fixed point cannot be some incontestable truth, a 'certain' statement that would always be subject [End Page 112] to psychoanalysis; it can only be the absolute status of an interlocutor, a being, and not a truth about beings" (41). In this last claim, the fate of Heideggerian fundamental ontology that is an understanding of Being rather than a relation to beings (or to a being, a face) is hitched to the fate of psychoanalysis and both linked to participation, the "nocturnal chaos" that threatens to drown the ego in the totality.

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#### The United States Supreme Court should grant cert to the area that the 1ac addresses. The Court should rule against the Third Circuit Court decision in New Jersey Department of Environmental Protection v. United States Nuclear Regulatory Commission on vague constitutional grounds.

#### This solves the whole case – litigation losses redirects and re-energizes social movements that result in a better version of the aff

Douglas NeJaime (Associate Professor of Law, Loyola Law School, Los Angeles) 2011 “Winning Through Losing” <http://lime.weeg.uiowa.edu/~ilr/issues/ILR_96-3_NeJaime.pdf>

First, I explore two internal movement effects of litigation loss: (1) Loss may help a specific organization stake out an identity in a competitive social movement by committing itself to a meaningful issue susceptible to judicial rejection; and (2) loss may contribute to mobilization and fundraising by inspiring outrage and signaling the need for continued activism in light of courts’ failure to act. Next, I illustrate two external effects of litigation loss: (1) Loss may prompt advocates to shift more attention and resources to other law-making institutions, but it may do so in a way that allows advocates to carve out a specific need for action by other state actors; and (2) advocates may use loss to appeal to the public by encouraging citizens to rein in an “activist,” countermajoritarian judiciary. While many of these indirect effects resonate with those identified by legal mobilization and cause lawyering scholars, I show how these effects derive meaning from the unique attributes of litigation loss, rather than merely the act of litigation. I use examples primarily from the LGBT-rights movement and the Christian Right movement.134 Taking cues from legal mobilization scholars’ interpretive approach, which relies heavily on content analysis and case studies, I pay significant attention to the actions and statements of social movement lawyers themselves.135 Furthermore, instead of merely viewing social movements in relation to the state,136 I devote special attention to the importance of movement–countermovement relationships.137 My analysis of opposing-movement interactions shows that social movement advocates, who operate within a framework of multidimensional advocacy, do not view defeat in one venue as the end of the story; rather, they engage other venues and alter their messaging based on their loss.138 It is important to note that I address the mobilization of loss as a strategy of necessity. Advocates may take cases they suspect they might lose, but they nonetheless hope (and attempt) to win. These advocates then react to the loss by reconfiguring the result in productive ways and by drawing lessons from the failed litigation. In this sense, strategies developed in the wake of loss operate as second-best alternatives—as responses to the failure of the initial tactic. My analysis suggests that in some circumstances the turn to the second-best alternatives might actually produce a more effective and robust movement in the long term; in this sense, the turn to other tactics in the wake of litigation loss may not merely produce the result sought through litigation, but might also yield important movement benefits beyond that result. Nonetheless, this project focuses on situations in which advocates must make the best of results they hoped to avoid.

#### The net-benefit is enforcement - Court victories trade-off with more effective reform strategies – crushes movements and causes conservative backlash – flips the aff

Little West (Associate at Long, Pound, and Komer, P.A., J.D. North Carolina – Chapel Hill) 2004 “Awakening the Moral Consciousness: On the Numbing of the Conscience of a Nation” 83 N.C.L. Rev. 289, Lexis

The more courts show a willingness to provide an easy answer to litigants, the less likely citizens are to take the path of greater resistance and greater reward by seeking community-based solutions for their problems. For example, if African-American advocacy groups 67 could have received total relief from the judiciary on a case addressing only their particularized grievances, they probably would have preferred the instant legal solution. These groups would not have banded together with the political and economic grassroots campaigns that ultimately empowered a [\*303] generation of activists with the knowledge of the power of political organization and the accompanying personal dignity. 68¶ Although judicial intervention does not prevent groups from working together in the political process, it provides a disincentive to the process based solution that provides a deeper, more substantive social solution in the long run.¶ C. Reduction of Opportunities for Community Involvement¶ ¶ Similarly, yet distinctly, the public and social sphere will suffer from a systematic deterioration. Citizens will be denied the opportunity to develop important social skills critical to a properly functioning democracy: communication, empathy, and advocacy to and for their peers. This is in stark contrast to individual advocacy in an elite judicial process. When citizens participate in the political process, it is often necessary to communicate with other interested persons and groups to forge coalitions supporting the group's goal. In litigation, however, one need only communicate directly to the court. The better scenario, therefore, is for people to develop communication skills by working with others in their own community and seeking litigation only as a last resort.¶ Not only will prevailing litigants be deterred from developing social advocacy skills, but judicial intervention will create a hostile social environment by making it difficult for a group to advocate on its own behalf in its community. As Rosenberg notes:¶ ¶ The data suggest that [court decisions] may mobilize opponents [of significant social reform]. With civil rights, there was growth in the membership and activities of pro-segregation groups such as the White Citizens Councils and the Ku Klux Klan in the years after Brown. With abortion, the Right to Life movement expanded rapidly after 1973. While both types of groups existed before Court actions, they appeared re-invigorated after it. In addition, in the wake of the Supreme Court's 1989 Webster decision, seen by many as a threat to continuing access to safe and legal abortion, pro-choice [\*304] forces seemed to gain renewed vigor. 69¶ ¶ In the present day, Americans can observe this phenomenon as the judiciary becomes involved in advancing the gay rights movement. 70 The response has been swift and significantly negative. 71 Indeed, some courts foresaw such consequences even before empirical studies on the point were performed. 72 Thus, while judicial review has the effect of squelching progressive, genetic social movements as described in the previous Section, it also has the ironic potential to invigorate reactive, resistive social movements.¶ Unnecessary judicial involvement is especially suspect in light of [\*305] research that indicates that people are unlikely to change their opinions on a subject once they have received information sufficient to form an opinion. 73 If this is indeed the case, then it is all the more important for the community to discuss these ideas without influence from an elite class of judges that hold a position of respect among the American public. 74 The Supreme Court has had difficulty making up its institutional mind in the past. 75 The first decision on any particular issue will probably "help[] individuals elaborate their opinions," therefore "subsequent decisions within the same issue area - even if they overrule an initial landmark decision - will have little effect on public opinion." 76 Rather than risking polarizing the opponents of those who seek social reform as well as contributing to the "elaboration" process only to unsuccessfully attempt to change the public's mind after the fact, 77 the courts should be willing to allow the political process room to operate.¶ D. Erosion of Political Responsibility¶ ¶ Fourth, judicial intervention provides political representatives a way out of politically uncomfortable situations. The representative can deflect responsibility to the judiciary's decision, rather than take a politically risky stance on the matter. 78 Although some cases that come before the judiciary [\*306] should be settled as a matter of constitutional law (some rights are clearer than others,) 79 special attention should nevertheless be devoted to the possibility of abuse by public officials, especially where the source of the constitutional right is suspect. Because legislative officials are intended to be directly responsive to the will of the people, 80 judicial interference assists the legislative branch in abdicating its constitutionally assigned role. 81¶ It is also true that this deflection of responsibility does not occur in every case. In fact, in some instances, public officials will be invigorated by a judicial decision. 82 Even if this is true, however, it is the people, not [\*307] judges, who should motivate representatives. In this sense, if judges become the motivators of legislative and executive representatives, then the judiciary will not simply have usurped the role of an independent branch of government, but of the people themselves. In view of the fact that judges cannot mechanically apply the law and must rely, to some extent, on their own subjective value systems and experiences, this is simply an unacceptable amplification of the preferences of the learned legal class from which judges hail. At least one judge has conceded that personal preferences cannot be eliminated from the process of judging, even where the judge recognizes that subjectivity exists and commits himself to the control thereof. 83¶ Thus, even if a court decision stimulates the political debate, the judiciary will have usurped the role of the people in establishing matters of legislative and/or executive importance. 84 It is not for the courts to decide what the matters of the public debate shall be; rather, the determination is for the constituents of policymakers. 85¶ E. Inefficient Allocation of Resources¶ ¶ From a practical standpoint, social advocates realize that limited resources must be applied in the most efficient method to affect a particular result. 86 If the judiciary induces the people into thinking that the courts can [\*308] bring about social changes, 87 advocacy groups will be deceived into expending large amounts of resources in a litigation strategy that may well make their real task, 88 true community understanding and acceptance, even more difficult.¶ If the judiciary in fact behaves as "fly paper" to obstruct groups, 89 then it is obviously not acting as a defender of the political process, but is serving to trap those interests that would otherwise prove successful with empty promises of social change at the inflated cost of litigation. The courts would thus hinder the goal of empowering citizens to advocate for and with others effectively in the democratic process. 90¶ F. Summary¶ ¶ Taken together, these five adverse consequences of judicial intervention are quite disturbing. These consequences are especially worrisome when one considers that the effect of denying the opportunity to learn of democracy will not be isolated; rather, parents, not having learned the democratic savvy necessary to become true "community creatures," will be unable to teach their children how to participate effectively in their own community. As the Rev. Dr. M. L. King, Jr. wrote, "we in this generation must do the work and in doing it stimulate our children to learn and acquire higher levels of skill and technique." 91 Thus, these negative consequences may well resonate throughout future generations. 92 It is critical, therefore, to consider how the courts can avoid premature interjections into the political process.

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#### Kennedy is leaning towards a conservative ruling on Fisher now – but progressive forces are pushing him to make a controversial decision to preserve affirmative action

David Gans (Director of the Human Rights, Civil Rights & Citizenship Program at the Constitutional Accountability Center) February 28, 2012 “Fisher v. University of Texas, Justice Kennedy, and the Text and History of the Fourteenth Amendment “ http://balkin.blogspot.com/2012/02/fisher-v-university-of-texas-justice.html

Progressives have the upper hand in this constitutional debate – the difference between oppression and assistance is deeply ingrained in our constitutional history – but to win in Fisher, they have to convince Justice Anthony Kennedy that UT Austin’s admission program survives strict scrutiny. Justice Kennedy began his career as a trenchant critic of affirmative action programs, but in recent years, he has forged a middle position on the Court, demanding that racial classifications be justified by strict scrutiny while recognizing that the government has a critical – and compelling – role in fostering equality of opportunity.¶ In 2003, Justice Kennedy’s dissent in Grutter recognized that “a university admissions program may take account of race as one, nonpredominant factor in a system designed to consider each applicant as an individual, provided that the program can meet the test of strict scrutiny by the judiciary.” To be constitutional, he wrote, “a university’s compelling state interest in a diverse student body must be achieved by a system where individual assessment is safeguarded through the entire process.” Justice Kennedy would have struck down the University of Michigan’s policy under strict scrutiny because, as implemented, the University sought “to make race an automatic factor in most instances and to achieve numerical goals indistinguishable from quotas.”¶ In 2007, in Parents Involved v. Seattle School District, Justice Kennedy broke from the rest of the Court’s conservatives. While Chief Justice Roberts, joined by the Court’s other conservative Justices, pronounced that “the way to stop discriminating on the basis of race is to stop discriminating on the basis of race,” Justice Kennedy rejected that sweeping statement, calling it inconsistent “with the history, meaning and reach of the Equal Protection Clause.” In line with the history of the Fourteenth Amendment, Justice Kennedy recognized the government’s compelling interest “in ensuring that all people have equal opportunity regardless of their race,” and rejected the notion that “the Constitution mandates that state and local authorities must accept the status quo of racial isolation in the schools.” Justice Kennedy concurred in the judgment invalidating the challenged policies because they used race in what he considered a heavy-handed, balkanizing manner – “reduc[ing] children to racial chits” – and thus could not satisfy strict scrutiny.¶ In Fisher, if Justice Kennedy pays heed to the text and history of the Fourteenth Amendment as well as his recent opinions, he should make a full break from Chief Justice Roberts and other conservatives on the meaning of equality. The University’s careful, tailored effort to redress racial isolation represents the best of our constitutional traditions, respecting the equality of all persons while taking modest steps to break down the lingering vestiges of our long history of racial discrimination. In Parents Involved, Justice Kennedy observed that the “Nation has a moral and ethical obligation to fulfill its historic commitment to creating an integrated society that ensures equal opportunity for all its children.” Fisher gives Justice Kennedy the opportunity to make good on his words and to honor the promise of equality at the core of the Constitution’s text and history.¶

####  [insert plan unpopular]

#### This will force Kennedy to strike down affirmative action - Court capital is key for Kennedy. He won’t make multiple controversial decisions

Michael Rappaport (Professor, University of San Diego School of Law) 2004 SYMPOSIUM: THE REHNQUIST COURT: IT'S THEO'CONNOR COURT: A BRIEF DISCUSSION OF SOME CRITIQUES OF THE REHNQUISTCOURT AND THEIR IMPLICATIONS FOR ADMINISTRATIVE LAW. 99 Nw. U.L. Rev.369, http://heinonline.org/HOL/Page?handle=hein.journals/illlr99&collection=journals&page=369#387,

One important element of O'Connor and Kennedy's judicial behavior is that they appear especially concerned with protecting the Court’s political capital. Consequently, these Justices would be unlikely to reach too many decisions that would lead to significant attacks on the Court. Many of the decisions that have been criticized for excessive judicial supremacy are actually better understood as reflecting an undue concern with the Court’s political capital. For example, Larry Kramer portrays United States v. Dickerson, which held unconstitutional a congressional statute that conflicted with Miranda v. Arizona, as reflecting a judicially su-premacist view that took umbrage at, and refused to defer to, a constitu-tional in terpretation by Congress.46 In my view, however, Dickerson is better understood as deriving from the Court’s unwillingness to be seen as overruling Miranda*.* Miranda arguably is the most famous decision in all of constitutional law. Citizens who know little else about constitutional law know from television and movies about “the right to remain silent.” If the Rehnquist Court had overruled Miranda, it would have not only been criticized by elite opinion but also taken a highly visible action to eliminate “a constitutional right.” As a result, Dickerson could have been used to sug-gest that the Court was demolishing the people’s liberties generally. In this situation, the most politically sensitive “conservative” Justices – O’Connor, Kennedy, and Rehnquist – bolted. A similar analysis applies to Planned Parenthood v. Casey, where the join opinion of Justices O’Connor, Kennedy, and Souter refused to over-rule Roe v. Wad*e.*47 Kramer again views this case as involving undue judicial supremacy because the joint opinion was concerned about the appearance created to its independence and credibility if it were to “over-rule under fire . . . a watershed decision.”48 While I certainly do not want to defend the joint opinion on legal grounds, I see no reason to doubt that it was motivated by its stated fear for the political capital of the Court rather than disrespect for the public’s constitutional views. Had the Court over-ruled *Roe v. Wade*, it was likely to have been subjected to a vehement attack by the political elite as well as by large numbers of ordinary citizens. These attacks could have charged not only that the Court had mistakenly eliminated a constitutional right, but that it had responded to political pressure. It was much safer for the Court to approve the precedent while suggesting that the decision was wrong as an original matter.49¶

#### He is the swing vote in Fisher v UT-Austin

Daniel de Vise (writer for the Washington Post) February 23, 2012 “Texas affirmative action case may hinge on Justice Kennedy” http://www.washingtonpost.com/blogs/college-inc/post/supreme-court-to-hear-case-on-affirmative-action-in-college-admissions/2012/02/23/gIQA1nZJWR\_blog.html

¶ Which way the Supreme Court goes on this case will most likely rest with Justice Anthony Kennedy, the swing vote on the court, who has been a vociferous critic of racial quotas, but who has also published some fairly nuanced opinions on race in college admissions. Because Justice Elena Kagan has recused herself from the case, there will only be eight justices voting.¶ ¶ If Kennedy votes with the conservative wing of the court, the Texas program could be overturned, meaning many colleges and universities — both public and private — may have to overhaul how they make admissions decisions. If he joins the three remaining liberals, resulting in a tie, the lower-court decision — which upheld the Texas program — would stand. Or he could come down somewhere in the middle, joining the conservatives or liberals, but writing a separate opinion that will hold more weight due to his swing-vote status.¶ ¶ That’s what happened in the last case involving race and schools in 2007, and lawyers for both sides will no doubt be poring over Kennedy’s past opinions as they plan oral arguments meant to sway him. Here’s a quick summary of what they will find:

#### Key to the economy

Amicus Brief submitted by an association of small businesses 2012 “BRIEF FOR AMICI CURIAE SMALL

BUSINESS OWNERS AND ASSOCIATIONS

IN SUPPORT OF RESPONDENTS” http://www.utexas.edu/vp/irla/Documents/ACR%20Small%20Business%20Owners.pdf

The signatories to this brief – representing¶ hundreds of thousands of small businesses – believe¶ diversity is increasingly essential to the success of¶ small businesses in this country. Small businesses¶ represent a dynamic engine of growth in the United¶ States economy. Indeed, small businesses contribute¶ more than half of the non-farm private Gross Domestic¶ Product (“GDP”)2 and account for about half of all¶ private sector employment.3 Moreover, between 1993¶ and 2009, small firms were responsible for 65 percent¶ of the 15 million net new jobs created in the U.S.¶ economy,4 and, according to Federal Reserve Chairman¶ Ben Bernanke, small businesses are vital to the¶ country’s economic recovery as “[t]hey often offer a¶ level of agility in bringing innovative products to the¶ global marketplace that larger firms cannot match.”5¶ In an encouraging trend for all Americans, minority¶ and women leaders from diverse backgrounds are¶ helping to lead our nation’s economic recovery, as¶ they are increasingly joining the ranks of entrepreneurs¶ and small business leaders.6¶ While small businesses have important qualities,¶ such as nimbleness and flexibility, that increase their¶ competitiveness, they also face unique challenges and¶ have distinctive needs that differ from larger enterprises.¶ Small business owners have unique perspectives¶ about the role of diversity in our economy and¶ the features of diversity programs that respond to the¶ needs of the business community today. The ability of¶ small businesses to adapt quickly to changing market¶ conditions – including changes in the demographic¶ make-up and global nature of the market – has¶ proven a necessary component of their success. This¶ distinctive feature of small business, however, requires¶ continuing access to a workforce “ ‘trained¶ through wide exposure’ to the ideas and mores of¶ students as diverse as this Nation of many peoples.”¶ Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 313¶ (1978) (opinion of Powell, J.) (quoting Keyishian v.¶ Bd. of Regents, 385 U.S. 589, 603 (1967)).¶ Because small businesses have more limited resources¶ to recruit, train, and manage a diverse workforce,¶ small businesses often depend heavily on public¶ institutions like the University of Texas at Austin¶ (“University of Texas”) to provide not only the knowledge¶ and skills that small business leaders need to¶ excel, but also access to the business and social networks¶ that are critical to succeeding in business.¶ Given the important role of public education to small¶ businesses, it is crucial that flagship public universities¶ like the University of Texas have the flexibility to¶ voluntarily implement admissions programs to promote¶ diversity within their academic programs that¶ reflect the myriad cultures, races, ethnicities, and¶ perspectives of our great nation.¶ Nine years ago, this Court held that “student¶ body diversity is a compelling state interest that can¶ justify the use of race in university admissions.”¶ Grutter v. Bollinger, 539 U.S. 306, 325 (2003). While¶ many large businesses filed amicus briefs in Grutter¶ and its companion case touting the importance of diversity¶ to the business community, the unique perspective¶ of small businesses was not squarely presented¶ to the Court. As this Court again prepares to consider¶ the role that race may appropriately play in higher education admissions, the signatories to this brief¶ highlight the importance of diversity to the success¶ of small businesses and the vital role that flexible,¶ holistic decision-making plays in achieving diversity¶ in both higher education and small business

#### Economic collapse causes global nuclear war

Friedberg and Schoenfeld, 2008[Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America” <http://online.wsj.com/article/SB122455074012352571.html>]

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

# 1nc

**Obama is winning but its close and reversible – the average of recent polls puts Obama ahead**

**Cook, 10/4**/12 – editor and publisher of the Cook Political Report for National Journal (Charlie, “Mitt Romney Breaks His Losing Streak” <http://www.nationaljournal.com/columns/cook-report/the-cook-report-romney-breaks-his-losing-streak-20121004?mrefid=mostViewed>)

Too many political observers see politics in an entirely binary way: Everything has to be either a “0” or a “1”; a race is either tied or it’s over; every election is either won or stolen. Some people never want to admit that their side lost. And some people think that a poll either tells them what they want to hear or is methodologically flawed—or crooked. It’s like an obnoxious sports fan (often found in Philadelphia) who views a ruling by a referee or umpire as either favorable or a bad call. Denial and simplicity reign.

The presidential election is neither tied nor over. Of the 16 most recent national polls using live telephone interviewers calling both respondents with landlines and those with cell phones (between 30 and 40 percent of voters do not have landlines and cannot legally be called by robo-pollsters), one has the race even, two have Obama with a narrow 2-point edge, five have 3-point Obama margins, two have 5-point Obama advantages, another pair have 6-point Obama leads, two have 7-point leads, and one has an 8-point Obama lead. This would strongly suggest that the Obama lead is between 3 and 6 percentage points; such brand-name polls as those by CNN, Fox News, and NBC News/Wall Street Journal are among those in that 3- to 6-point range.

Conversations with Democratic and Republican pollsters and strategists suggest that Colorado, Florida, North Carolina, and Virginia are the most competitive swing states. Some high-quality private polling shows Romney with very narrow leads in both North Carolina and Virginia, but a few other equally sophisticated surveys show Obama with narrow advantages in those two states. At least one private survey shows Florida even, but most show the Sunshine State and Colorado with narrow Obama leads, in the small- to mid-single-digit range. Just a hair or two better for Obama but still quite close are Nevada and Wisconsin, followed by Iowa. Things really get ugly for Romney in Ohio and Michigan, and, finally, in Pennsylvania, which is no longer competitive. Ohio shows a 5- to 8-point lead for Obama in private polling. In Michigan, Obama’s lead is slightly wider, and in Pennsylvania, Romney faces close to a 10-point deficit. It is mathematically possible for Romney to reach 270 electoral votes without Michigan, Ohio, or Pennsylvania, but it is in reality exceedingly unlikely.

It would take a very consequential event to change the trajectory of this race. Time will tell whether Romney’s strong debate performance on Wednesday night was the event that he needed—particularly in swing states such as Ohio. But at least he energized his supporters and sent a clear message that the race is not over.

#### Nuclear power is unpopular with the public – multiple reasons

Mariotte 12 – executive director and the chief spokesperson for NIRS, has testified in the United States Senate and before the U.S. House of Representatives on nuclear power, a graduate of Antioch College. (Michael, Jun 5th, “Nuclear Power and Public Opinion: What the polls say” http://www.dailykos.com/story/2012/06/05/1097574/-Nuclear-Power-and-Public-Opinion-What-the-polls-say) Jacome

These are all fundamental questions, the answers to which could affect our future far more than, say, who will be the next Senator from Indiana. Yet, perhaps surprisingly, until recently—really the past two or three years—other than regularly-conducted, loudly-trumpeted and rarely relevant industry-sponsored polls, polling of public opinion on nuclear power (and a lot of other energy issues) was haphazard at best.

Gallup, for example, over the past 18 years as best as we can find out, has conducted only 10 polls (and most of these only asked a half-sample, putting their numbers into question) asking people their opinion on nuclear power. But beginning in 2009, Gallup has begun polling annually. Unfortunately, Gallup asks the exact same question, with the same wording, that the Nuclear Energy Institute’s (NEI) own well-tested polling does. And the NEI doesn’t ask questions that it doesn’t want the answers to. Even so, Gallup’s answers don’t quite match those NEI gets, and which are usually heavily promoted in the media by NEI.

To try to get a better sense of what the public really thinks about nuclear power (and since we can’t afford to conduct our own polling), we took a look at every poll we could find on the issue, and related energy issues, over the past two years, and in some cases further back. Yes, that includes GOP/Fox News favorite Rasmussen.

As DailyKos readers know, if not the general public, examining all the possible polls leads to a much greater confidence in conclusions than relying on a single poll. Thus, we have a fairly strong confidence that our conclusions are a good statement of where the American public is at on nuclear power and our energy future in the Spring of 2012.

Conclusion 1: The public does NOT want to pay for new nuclear power. It IS willing to pay for renewable energy.

This one is a slam dunk.

New nuclear reactors are simply too expensive for utilities to build with their own assets. Nor are banks willing to lend money for most nuclear projects; they’re considered too risky given the long history of cost overruns, defaults, cancellations and other problems. Thus, the only two means of financing a new reactor are to either get money from taxpayers, through direct federal loans or taxpayer-backed loan guarantees, or from ratepayers in a few, mostly Southern states, which allow utilities to collect money from ratepayers before reactors are built—a concept known either as “early cost recovery” or Construction Work in Progress (CWIP).

ORC International (which polls for CNN, among others) has asked a straightforward question for the past two years (March 2011 and February 2012) in polls commissioned by the Civil Society Institute: “Should U.S. Taxpayers Take on the Risk of Backing New Nuclear Reactors?” The answer? Basically identical both years: 73% opposed in 2011, 72% opposed in 2012.

Maybe using the work “risk” skews the poll, you think? So ORC also asked, “Do you favor or oppose shifting federal loan guarantees from nuclear energy to clean renewables?” The answer was basically the same: 74% said yes in 2011, 77% in 2012 with 47% “strongly” holding that opinion both years.

A third poll conducted by ORC for Civil Society Institute in March 2012 asked this question:

“Utilities in some states are allowed to charge electricity ratepayers for “Construction Work in Progress” for new power plants. This means that ratepayers – instead of the companies – pay for construction of new nuclear reactors and other major power plants before any electricity ever reaches customers, thereby lowering the financial risks to shareholders. Knowing this, which of the following statements about “Construction Work in Progress” most closely reflects your view?”

The answer: fully 80% opposed CWIP.

Most pollsters have not asked similar questions; interestingly though, Rasmussen did in May 2012 for an undisclosed client. Their question: “The government is providing billions in loan guarantees to help the development of new nuclear plants. Would that money be better spent on the development of alternative new energy sources?” Unfortunately, Rasmussen did not publicize the results and hid them behind a paywall, which we were not inclined to pursue. But if anyone has access to that, we’d love to know what Rasmussen found.

Conclusion 2: Americans do not think nuclear power is “clean” energy, and still don’t want to pay for it.

Jumping back to ORC International, their March 2012 poll found this:

About two out of three Americans (66 percent) – including 58 percent of Republicans, 65 percent of Independents, and 75 percent of Democrats -- agree that the term “‘clean energy standard’ should not be used to describe any energy plan that involves nuclear energy, coal-fired power, and natural gas that comes from hydraulic fracturing, also known as ‘fracking.’”

and this:

About three out of four Americans (73 percent) agree that “federal spending on energy should focus on developing the energy sources of tomorrow, such as wind and solar, and not the energy sources of yesterday, such as nuclear power.” Fewer than one in four (22 percent) say that “federal spending on energy should focus on existing energy sources, such as nuclear, and not emerging energy sources, such as wind and solar.”

Meanwhile, the New York Times in May reported on a Harvard/Yale poll (also behind a paywall), conducted in 2011 but released in May 2012, that found that Americans are willing to pay an average of $162/year more for clean energy than they are paying now—an average 13% increase in electric bills. But when clean energy was defined as including nuclear power or natural gas, that support plummeted.

This is consistent with findings over the past decade, which have shown that nuclear power has typically ranked well below renewable energy sources, especially solar and wind, in public opinion, at times battling with coal for least-favorite U.S. energy source.

A March 2012 Gallup poll found that 69% of Americans support spending more government money on solar and wind power—with majorities among Democrats (84%) and Republicans (51%) alike. But support for “expanding the use of nuclear power” barely received a majority (52%) and then only due to Republican support: 64% of Republicans supported that idea, only 41% of Democrats.

Conclusion 3: On new reactors, how one asks the question matters.

Gallup and the Nuclear Energy Institute ask the same question: “Overall, do you strongly favor, somewhat favor, somewhat oppose or strongly oppose the use of nuclear energy as one of the ways to provide electricity in the U.S.?”

This question doesn’t really get to the issue of support for new nuclear reactors, although NEI typically tries to spin it that way. Although a question of support for current reactors wasn’t asked in any recent poll we saw, the public traditionally has been more supportive of existing reactors than new ones, and the question above could easily be interpreted as support for existing reactors, or even simple recognition that they exist. The results may also be skewed by the pollsters throwing nuclear in as “one of the ways,” without a context of how large a way.

Nonetheless, despite asking the same question, Gallup and NEI can’t agree on the answer. NEI, for example, in November 2011 asserted that 28% of the public strongly favors nuclear power with an additional 35% somewhat in favor. NEI found only 13% strongly opposed and another 21% somewhat opposed. A May 2012 NEI poll did not publicly break down the numbers into strongly vs somewhat, but claimed a similar 64-33% split between support for nuclear power and opposition.

Gallup, asking the same question in March 2012, found a narrower split. A smaller number was strongly in favor (23%, a drop of 5%) and a larger number strongly opposed (24%, increase of 3%)—overall an 8-point anti-nuclear swing among those with strong opinions. Those in the middle were 34% somewhat favor vs 16% somewhat opposed. The 2012 numbers were slightly worse for nuclear power than the identical question asked in March 2011, just before Fukushima.

But other polls suggest that Gallup and NEI may be asking the wrong question. For example, the LA Times reported on a Yale-George Mason University poll in April 2012 that found that support for new nuclear power had dropped significantly, from 61% in 2008 to 42% today.

Even Rasmussen in its May 2012 poll found that only 44% support building new reactors. That was good news for Rasmussen since it found that only 38% oppose them, with a surprising 18% undecided (surprising because no other poll we saw had such a high undecided contingent for any nuclear-related question).

Meanwhile the March 2012 ORC International poll found that:

“Nearly six in 10 Americans (57 percent) are less supportive of expanding nuclear power in the United States than they were before the Japanese reactor crisis, a nearly identical finding to the 58 percent who responded the same way when asked the same question one year ago. Those who say they are more supportive of nuclear power a year after Fukushima account for well under a third (28 percent) of all Americans, little changed from the 24 percent who shared that view in 2011.”

But perhaps the most telling, and easily the most interesting, poll comes from a March 2012 poll from the Yale Project on Climate Change Communications. Participants were asked, “When you think of nuclear power, what is the first word or phrase that comes to your mind?”

29% of those polled said “disaster.” Another 24% said “bad.” Only about 15% said “good” and that was the only measurable group that had anything positive to say. That poll also found that, “…only 47 percent of Americans in May 2011 supported building more nuclear power plants, down 6 points from the prior year (June 2010), while only 33 percent supported building a nuclear power plant in their own local area.”

Conclusions

Americans are not exactly wild about the idea of building new nuclear reactors. Polls asking the question different ways arrive at different results; at the lowest common denominator it is safe to say the country is divided on the issue. But Americans clearly don’t want to pay for construction of new reactors. And the reality is that no utility wants to or even can spend its own money building new reactors—they’re just too expensive. Congress, State legislatures and Public Service Commissions would do well to heed that warning, especially since it crosses all party and political lines.

#### Romney would end EPA regulations that are key to competitiveness and prevent warming

NYT 6-16-2012; Editorial, Energy Etch A Sketch, http://www.nytimes.com/2012/06/17/opinion/sunday/energy-etch-a-sketch.html?\_r=2&hp

Meanwhile, the self-described risk-taker who once touted clean energy as “an economic engine very much like biotech” now regularly denounces Mr. Obama for taking risks. His campaign organized a press trip on May 31 to the shuttered factory of a solar panel maker, Solyndra, which went bankrupt and took $535 million in federal loan guarantees with it. Mr. Romney attacked Mr. Obama for “crony capitalism” and, by implication, indicted the entire federal effort to jump-start nascent technologies. Never mind that Solyndra is the only big failure so far in a broad $37.6 billion program that began under George W. Bush. Or that there is not a single important energy source in this country — especially oil — that has not received support from government subsidies. Never mind that there is no way this country is going to wean itself from foreign oil or address climate change without alternative fuels. Mr. Romney has been especially eager to demonize the E.P.A. and environmental regulations Last fall he declared that “the E.P.A. has gotten completely out of control for a very simple reason. It is a tool in the hands of the president to crush the private enterprise system, to crush our ability to have energy whether it’s oil, gas, coal or nuclear.” What Mr. Romney has either forgotten or chosen to ignore is that the clean water and clean air laws the E.P.A. is enforcing were passed by bipartisan majorities four decades ago when Republicans were still interested in protecting Americans’ health and the environment. The idea that a politician, especially Mr. Romney, would change his positions for political gain won’t surprise anyone. But the costs of not getting energy policy right — America’s security, its global competitiveness, public health and the health of the planet — are much too high for such cynical business as usual.

Extinction

**Cole citing Archer 11** – badass citing badass, Juan Cole is the Richard P. Mitchell Collegiate Professor of History at the University of Michigan, David Archer is professor in the Department of The Geophysical Sciences at the University of Chicago; Juan, Informed Comment, “A Hot Wet Thousand Years and 10 Green Energy Stories to Avert it”, http://www.juancole.com/2011/11/a-hot-wet-thousand-years-and-10-green-energy-stories-to-avert-it.html?utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed%3A+juancole%2Fymbn+%28Informed+Comment%29

The bad news is that I’ve been reading David Archer’s The Long Thaw on climate change projections, and he thinks that the Intergovernmental Panel on Climate Change has been way too conservative. As I understand him, his research shows that because of massive carbon emissions produced by human beings, by 2100 the average temperature of the earth’s surface will likely increase by 3 degrees C. But, he thinks thatthereafter it will go on up another 2 degrees, for a total of 5 over the next few generations.The last time you had a climate 5 degree C. warmer than our prehistoric climate was the Eocene, 40 million years ago. All surface ice melted and the climate was tropical all the way to the poles. We don’t actually know if there has ever been such a rapid increase in carbon in the atmosphere (there have been occasional periods in geological time when the earth warmed up similarly, as with the Eocene, but it is impossible to know at the moment over what time period that occurred). Human beings nowadays are carbon-spewers on steroids. Archer argues that the dynamics of ocean water flows and the uncertainties of how quickly the oceans will absorb some of the extra carbon mean that the worst of the climate change effects will likely be delayed beyond 2100. Typically, sea level has risen 10-20 yards / meters for every increase of 1 degree in the surface temperature. So a 5 degree rise will eventually likely mean a sea level rise of 50 to 70 meters, which would cover a third more of the land mass than currently. The rise will take place over several centuries. Kevin Costner’s Waterworld may have been a bad film, but it might be good future history. It will take about 100,000 years (the entire likely age of homo sapiens sapiens as a species) for the oceans and igneous rocks to wash the extra carbon out of the atmosphere. Since the human species and human civilization arose under very different and significantly colder conditions, it is possible that a 5 degree rise in the average earth temperature over two or three centuries could lead to severe civilizational crisis and even extinction**.** On past evidence, the acidification of the oceans from carbon absorption will likely kill most marine life, a major human food source. And, human agricultural techniques assume large temperate zones. Archer’s pessimism, beyond the IPCC conservative estimates also suggests a problem, which is that the worst catastrophes facing our species because of our current carbon binge may take place over centuries (apparently the first 1,000 years after the period of large carbon emissions will be the worst). If we can’t get people alarmed about 2100 because it is too far off (it is only a human lifetime off in fact), how can we excite them about 2500? Well, we’re probably screwed. But the more we move to renewable energy in this generation, the less dramatic the millennial calamity. Archer’sworst case assumes that we’ll burn all the coal now known to exist. Friends, really. We don’t need to do that. James Hansen has suggested that coal burning should be a hanging crime, like horse stealing in the old West. Anyway, here are some slim reeds of hope

# 1nc

**Ethical obligations are tautological—the only coherent rubric is to maximize number of lives saved**

**Greene 2010** – Associate Professor of the Social Sciences Department of Psychology Harvard University (Joshua, Moral Psychology: Historical and Contemporary Readings, “The Secret Joke of Kant’s Soul”, [www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf](http://www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf), WEA)

What turn-of-the-millennium science is telling us is that human moral judgment is not a pristine rational enterprise, that our moral judgments are driven by a hodgepodge of emotional dispositions, which themselves were shaped by a hodgepodge of evolutionary forces, both biological and cultural. Because of this, it is exceedingly unlikely that there is anyrationallycoherentnormativemoral theory that can accommodateourmoral intuitions. Moreover, anyone who claims to have such a theory, or even part of one, almost certainly doesn't. Instead, what that person probably has is a moral rationalization.

It seems then, that we have somehow crossed the infamous "is"-"ought" divide.  How did this happen? Didn't Hume (Hume, 1978) and Moore (Moore, 1966) warn us against trying to derive an "ought" from and "is?" How did we go from descriptive scientific theories concerning moral psychology to skepticism about a whole class of normative moral theories? The answer is that we did not, as Hume and Moore anticipated, attempt to derive an "ought" from and "is." That is, our method has been inductive rather than deductive. We have inferred on the basis of the available evidence that the phenomenon of rationalist deontological philosophy is best explained as a rationalization of evolved emotional intuition (Harman, 1977).

Missing the Deontological Point
I suspect that rationalist deontologists will remain unmoved by the arguments presented here. Instead, I suspect, they will insist that I have simply misunderstoodwhatKant and like-minded deontologistsare all about. Deontology, they will say, isn't about this intuition or that intuition. It's not defined by its normative differences with consequentialism. Rather, deontology is about taking humanity seriously. Above all else, it's about respect for persons. It's about treating others as fellow rational creatures rather than as mere objects, about acting for reasons rational beings can share. And so on (Korsgaard, 1996a; Korsgaard, 1996b).This is, no doubt, how many deontologists see deontology. But this insider's view, as I've suggested, may be misleading. The problem, more specifically, is that it defines deontology in terms of values that are notdistinctivelydeontological, though they may appear to be from the inside. Consider the following analogy with religion. When one asks a religious person to explain the essence of his religion, one often gets an answer like this: "It's about love, really. It's about looking out for other people, looking beyond oneself. It's about community, being part of something larger than oneself." This sort of answer accurately captures the phenomenology of many people's religion, but it's nevertheless inadequate for distinguishing religion from other things. This is because many, if not most, non-religious people aspire to love deeply, look out for other people, avoid self-absorption, have a sense of a community, and be connected to things larger than themselves. In other words, secular humanists and atheists can assent to most of what many religious people think religion is all about. From a secular humanist's point of view, in contrast, what's distinctive about religion is its commitment to the existence of supernatural entities as well as formal religious institutions and doctrines. And they're right. These things really do distinguish religious from non-religious practices, though they may appear to be secondary to many people operating from within a religious point of view.
In the same way, I believe that most of the standard deontological/Kantian self-characterizatons fail to distinguish deontology from other approaches to ethics. (See also Kagan (Kagan, 1997, pp. 70-78.) on the difficulty of defining deontology.) It seems to me that consequentialists, as much as anyone else, have respect for persons, are against treating people asmereobjects, wish to act for reasons that rational creatures can share, etc. A consequentialist respects other persons, and refrains from treating them as mere objects, by counting every person's well-beingin the decision-making process. Likewise, a consequentialist attempts to act according to reasons that rational creatures can share by acting according to principles that give equal weight to everyone's interests, i.e. that are impartial. This is not to say that consequentialists and deontologists don't differ. They do. It's just that the real differences may not be what deontologists often take them to be.
What, then, distinguishes deontology from other kinds of moral thought? A good strategy for answering this question is to start with concrete disagreements between deontologists and others (such as consequentialists) and then work backward in search of deeper principles. This is what I've attempted to do with the trolley and footbridge cases, and other instances in which deontologists and consequentialists disagree. If you ask a deontologically-minded person why it's wrong to push someone in front of speeding trolley in order to save five others, you will getcharacteristically deontological answers. Some will betautological: "Because it's murder!"Others will be more sophisticated: "The ends don't justify the means." "You have to respect people's rights." But, as we know, these answers don't really explain anything, because if you give the same people (on different occasions) the trolley case or the loop case (See above), they'll make the opposite judgment, even though their initial explanation concerning the footbridge case applies equally well to one or both of these cases. Talk about rights, respect for persons, and reasons we can share are natural attempts to explain, in "cognitive" terms, what we feel when we find ourselves having emotionally driven intuitions that are odds with the cold calculus of consequentialism. Although these explanations are inevitably incomplete, there seems to be "something deeply right" about thembecause they give voice to powerful moral emotions. But, as with many religious people's accounts of what's essential to religion, they don't really explain what's distinctive about the philosophy in question.

**Violence is proximately caused – root cause logic is poor scholarship**

**Sharpe**, **10** [Matthew, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University,, Žižek and Politics: An Introduction, p. 231 – 233]

We realise that this argument, which we propose as a new ‘quilting’ framework to explain Žižek’s theoretical oscillations and political prescriptions, raises some large issues of its own. While this is not the place to further that discussion, we think its analytic force leads into a much wider critique of ‘Theory’ in parts of the latertwentieth- century academy, which emerged following the ‘cultural turn’ of the 1960s and 1970s in the wake of the collapse of Marxism. Žižek’s paradigm to try to generate all his theory of culture, subjectivity, ideology, politics and religion is psychoanalysis. But a similar criticism would apply, for instance, to theorists who feel that the method Jacques Derrida developed for criticising philosophical texts can meaningfully supplant the methodologies of political science, philosophy, economics, sociology and so forth, when it comes to thinking about ‘the political’. Or, differently, thinkers who opt for Deleuze (or Deleuze’s and Guattari’s) Nietzschean Spinozism as a new metaphysics to explain ethics, politics, aesthetics, ontology and so forth, seem to us candidates for the same type of criticism, as a reductive passing over the empirical and analytic distinctness of the different object fields in complex societies.

In truth, we feel that Theory, and the continuing line of ‘master thinkers’ who regularly appear particularly in the English- speaking world, is the last gasp of what used to be called First Philosophy. The philosopher ascends out of the city, Plato tells us, from whence she can espie the Higher Truth, which she must then bring back down to political earth. From outside the city, we can well imagine that she can see much more widely than her benighted political contemporaries. But from these philosophical heights, we can equally suspect that the ‘master thinker’ is also always in danger of passing over the salient differences and features of political life – differences only too evident to people ‘on the ground’. Political life, after all, is always a more complex affair than a bunch of ideologically duped fools staring at and enacting a wall (or ‘politically correct screen’) of ideologically produced illusions, from Plato’s timeless cave allegory to Žižek’s theory of ideology.

We know that Theory largely understands itself as avowedly ‘post- metaphysical’. It aims to erect its new claims on the gravestone of First Philosophy as the West has known it. But it also tells us that people very often do not know what they do. And so it seems to us that too many of its proponents and their followers are mourners who remain in the graveyard, propping up the gravestone of Western philosophy under the sign of some totalising account of absolutely everything – enjoyment, différance, biopower . . . Perhaps the time has come, we would argue, less for one more would- be global, allpurpose existential and political Theory than for a **multi- dimensional and interdisciplinary critical theory** that would challenge the chaotic specialisation neoliberalism speeds up in academe, which mirrors and accelerates the splintering of the Left over the last four decades. This would mean that we would have to shun the hope that one method, one perspective, or one master thinker could single- handedly decipher all the complexity of socio- political life, the concerns of really existing social movements – which specifi cally does not mean mindlessly celebrating difference, marginalisation and multiplicity as if they could be suffi cient ends for a new politics. It would be to reopen critical theory and non- analytic philosophy to the other intellectual disciplines, most of whom today pointedly reject Theory’s legitimacy, neither reading it nor taking it seriously.

**Psychoanalytic social theory annihilates politics—the premise of their link is so broad that it prevents all social action and explains away every historical event**

**Gordon 1 –** psychotherapist living and working in London. (Paul, Race & Class, “Psychoanalysis and racism: the politics of defeat”, April, sage publications database)

The postmodernists' problem is that they cannot live with disappointment. All the tragedies of the political project of emancipation - the evils of Stalinism in particular - are seen as the inevitable product of men and women trying to create a better society. But, rather than engage in a critical assessment of how, for instance, radical political movements go wrong, they discard the emancipatory project and impulse itself. The postmodernists, as Sivanandan puts it, blame modernity for having failed them: `the intellectuals and academics have fled into discourse and deconstruction and representation - as though to interpret the world is more important than to change it, as though changing the interpretation is all we could do in a changing world'.58

To justify their flight from a politics holding out the prospect of radical change through self-activity, the disappointed intellectuals find abundant intellectual alibis for themselves in the very work they champion, including, in Cohen's case, psychoanalysis. What Marshall Berman says of Foucault seems true also of psychoanalysis; that it offers `a world-historical alibi' for the passivity and helplessness felt by many in the 1970s, and that it has nothing but contempt for those naive enough to imagine that it might be possible for modern human- kind to be free. At every turn for such theorists, as Berman argues, whether in sexuality, politics, even our imagination, we are nothing but prisoners:

there is no freedom in Foucault's world, because his language forms a seamless web, a cage far more airtight than anything Weber ever dreamed of, into which no life can break . . . There is no point in trying to resist the oppressions and injustices of modern life, since even our dreams of freedom only add more links to our chains; how- ever, once we grasp the futility of it all, at least we can relax.59

Cohen's political defeatism and his conviction in the explanatory power of his new faith of psychoanalysis lead him to be contemptuous and dismissive of any attempt at political solidarity or collective action. For him, `communities' are always `imagined', which, in his view, means based on fantasy, while different forms of working-class organisation, from the craft fraternity to the revolutionary group, are dismissed as `fantasies of self-sufficient combination'.60 In this scenario, the idea that people might come together, think together, analyse together and act together as rational beings is impossible. The idea of a genuine community of equals becomes a pure fantasy, a `symbolic retrieval' of something that never existed in the first place: `Community is a magical device for conjuring something apparently solidary out of the thin air of modern times, a mechanism of re-enchantment.' As for history, it is always false, since `We are always dealing with invented traditions.'61 Now, this is not only non- sense, but dangerous nonsense at that. Is history `always false'? Did the Judeocide happen or did it not? And did not some people even try to resist it? Did slavery exist or did it not, and did not people resist that too and, ultimately, bring it to an end? And are communities always `imagined'? Or, as Sivanandan states, are they beaten out on the smithy of a people's collective struggle?

Furthermore, all attempts to legislate against ideology are bound to fail because they have to adopt `technologies of surveillance and control identical to those used by the state'. Note here the Foucauldian language to set up the notion that all `surveillance' is bad. But is it? No society can function without surveillance of some kind. The point, surely, is that there should be a public conversation about such moves and that those responsible for implementing them be at all times accountable. To equate, as Cohen does, a council poster about `Stamping out racism' with Orwell's horrendous prophecy in 1984 of a boot stamping on a human face is ludicrous and insulting. (Orwell's image was intensely personal and destructive; the other is about the need to challenge not individuals, but a collective evil.) Cohen reveals himself to be deeply ambivalent about punitive action against racists, as though punishment or other firm action against them (or anyone else transgressing agreed social or legal norms) precluded `understanding' or even help through psychotherapy.

It is indeed a strange kind of `anti-racism' that portrays active racists as the `victims', those who are in need of `help'. But this is where Cohen's argument ends up.

In their move from politics to the academy and the world of `discourse', the postmodernists may have simply exchanged one grand narrative, historical materialism, for another, psychoanalysis.62 For psychoanalysis is a grand narrative, par excellence. It is a theory that seeks to account for the world and which recognises few limits on its explanatory potential. And the claimed radicalism of psycho- analysis, in the hands of the postmodernists at least, is not a radicalism at all but a prescription for a politics of quietism, fatalism and defeat. Those wanting to change the world, not just to interpret it, need to look elsewhere.

**Even if they win superior explanatory power, psychoanalytic imaginings are useless in advancing political change**

Adam Rosen-Carole 10, Visiting Professor of Philosophy at Bard College, 2010, “Menu Cards in Time of Famine: On Psychoanalysis and Politics,” Psychoanalytic Quarterly, Vol. LXXIX, No. 1, p. 205-207

On the other hand, though in these ways and many others, psychoanalysis seems to promote the sorts of subjective dispositions and habits requisite for a thriving democracy, and though in a variety of ways psychoanalysis contributes to personal emancipation— say, by releasing individuals from self-defeating, damaging, or petrified forms action and reaction, object attachment, and the like—in light of the very uniqueness of what it has to offer, one cannot but wonder: to what extent, if at all, can the habits and dispositions—broadly, the forms of life—cultivated by psychoanalytic practice survive, let alone flourish, under modern social and political conditions? If the emancipatory inclinations and democratic virtues that psychoanalytic practice promotes are systematically crushed or at least regularly unsupported by the world in which they would be realized, then isn’t psychoanalysis implicitly making promises it cannot redeem? Might not massive social and political transformations be the condition for the efficacious practice of psychoanalysis? And so, under current conditions, can we avoid experiencing the forms of life nascently cultivated by psychoanalytic practice as something of a tease, or even a source of deep frustration?

(2) Concerning psychoanalysis as a politically inclined theoretical enterprise, the worry is whether political diagnoses and proposals that proceed on the basis of psychoanalytic insights and forms of attention partake of a fantasy of interpretive efficacy (all the world’s a couch, you might say), wherein our profound alienation from the conditions for robust political agency are registered and repudiated?

Consider, for example, Freud and Bullitt’s (1967) assessment of the psychosexual determinants of Woodrow Wilson’s political aspirations and impediments, or Reich’s (1972) suggestion that Marxism should appeal to psychoanalysis in order to illuminate and redress neurotic phenomena that generate disturbances in working capacity, especially as this concerns religion and bourgeois sexual ideology. Also relevant are Freud’s, Žižek’s (1993, 2004), Derrida’s (2002) and others’ insistence that we draw the juridical and political consequences of the hypothesis of an irreducible death drive, as well as Marcuse’s (1970) proposal that we attend to the weakening of Eros and the growth of aggression that results from the coercive enforcement of the reality principle upon the sociopolitically weakened ego, and especially to the channeling of this aggression into hatred of enemies. Reich (1972) and Fromm (1932) suggest that psychoanalysis be employed to explore the motivations to political irrationality, especially that singular irrationality of joining the national-socialist movement, while Irigaray (1985) diagnoses the desire for the Same, the One, the Phallus as a desire for a sociosymbolic order that assures masculine dominance.

Žižek (2004) contends that only a psychoanalytic exposition of the disavowed beliefs and suppositions of the United States political elite can get at the fundamental determinants of the Iraq War. Rose (1993) argues that it was the paranoiac paradox of sensing both that there is every reason to be frightened and that everything is under control that allowed Thatcher “to make this paradox the basis of political identity so that subjects could take pleasure in violence as force and legitimacy while always locating ‘real’ violence somewhere else—illegitimate violence and illicitness increasingly made subject to the law” (p. 64). Stavrakakis (1999) advocates that we recognize and traverse the residues of utopian fantasy in our contemporary political imagination.1

Might not the psychoanalytic interpretation of powerful figures (Bush, Bin Laden, or whomever), collective subjects (nations, ethnic groups, and so forth), or urgent “political” situations register an anxiety regarding political impotence or “castration” that is pacified and modified by the fantasmatic frame wherein the psychoanalytically inclined political theorist situates him- or herself as diagnosing or interpretively intervening in the lives of political figures, collective political subjects, or complex political situations with the idealized efficacy of a successful clinical intervention? If so, then the question is: are the contributions of psychoanalytically inclined political theory anything more than tantalizing menu cards for meals it cannot deliver**?**

As I said, the worry is twofold. These are two folds of a related problem, which is this: might the very seductiveness of psychoanalytic theory and practice—specifically, the seductiveness of its political promise—register the lasting eclipse of the political and the objectivity of the social, respectively? In other words, might not everything that makes psychoanalytic theory and practice so politically attractive indicate precisely the necessity of wide-ranging social/institutional transformations that far exceed the powers of psychoanalysis?

And so, might not the politically salient transformations of subjectivity to which psychoanalysis can contribute overburden subjectivity as the site of political transformation, blinding us to the necessity of largescale institutional reforms? Indeed, might not massive institutional transformations be necessary conditions for the efficacy of psychoanalytic practice, both personally and politically? Further, might not the so-called interventions and proposals of psychoanalytically inclined political theory similarly sidestep the question of the institutional transformations necessary for their realization, and so conspire with our blindness to the enormous institutional impediments to a progressive political future?

**This is a solvency takeout and a case turn. The act of imagination they call for overstates the political value of psychoanalysis and is a neurotic projection of personal alienation**

Adam Rosen-Carole 10, Visiting Professor of Philosophy at Bard College, 2010, “Menu Cards in Time of Famine: On Psychoanalysis and Politics,” Psychoanalytic Quarterly, Vol. LXXIX, No. 1, p. 226-229

The second approach to the problem has to do with psychoanalytic contributions to political theory that avoid Freud’s methodological individualism, but nevertheless run into the same problem. An expanding trend in social criticism involves a tendency to discuss the death or aggressive drives, fantasy formations, traumas, projective identifications, defensive repudiations, and other such “psychic phenomena” of collective subjects as if such subjects were ontologically discrete and determinate. Take the following passage from Žižek (1993) as symptomatic of the trend I have in mind:

In Eastern Europe, the West seeks for its own lost origins, its own lost original experience of “democratic invention.” In other words, Eastern Europe functions for the West as its Ego-Ideal (Ich-Ideal): the point from which [the] West sees itself in a likable, idealized form, as worthy of love. The real object of fascination for the West is thus the gaze, namely the supposedly naive gaze by means of which Eastern Europe stares back at the West, fascinated by its democracy. [p. 201, italics in original]

Also, we might think here of the innumerable discussions of “America’s death drive” as propelling the recent invasions in the Middle East, or of the ways in which the motivation for the Persian Gulf Wars of the 1990s was a collective attempt “to kick the Vietnam War Syndrome”— that is, to solidify a national sense of power and prominence in the recognitive regard of the international community—or of the psychoanalytic speculations concerning the psychodynamics of various nations involved in the Cold War (here, of course, I have in mind Segal’s [1997] work), or of the collective racist fantasies and paranoiac traits that organize various nation-states’s domestic and foreign policies.7

Here are some further examples from Žižek, who, as a result of his popularity, might be said to function as a barometer of incipient trends:

• What is therefore at stake in ethnic tensions is always the possession of the national Thing. We always impute to the “other” [ethnic group, race, nation, etc.] an excessive enjoyment: he wants to steal our enjoyment (by ruining our way of life) and/or he has access to some secret, perverse enjoyment. [1993, pp. 202-203]

• Beneath the derision for the new Eastern European post- Communist states, it is easy to discern the contours of the wounded narcissism of the European “great nations.” [2004, p. 27, italics added]

• There is in fact something of a neurotic symptom in the Middle Eastern conflict—everyone recognizes the way to get rid of the obstacle, yet nonetheless, no one wants to remove it, as if there is some kind of pathological libidinal profit gained by persisting in the deadlock. [2004, p. 39, italics added]

• If there was ever a passionate attachment to the lost object, a refusal to come to terms with its loss, it is the Jewish attachment to their land and Jerusalem . . . . When the Jews lost their land and elevated it into the mythical lost object, “Jerusalem” became much more than a piece of land . . . . It becomes the stand-in for . . . all that we miss in our earthly lives. [2004, p. 41]

Rather than explore collective subjects through analyses of their individual members, this type of psychoanalytically inclined engagement with politics treats a collective subject (a nation, a region, an ethnic group, etc.) as if it were simply amenable to explanation, and perhaps even to intervention, in a manner identical to an individual psyche in a therapeutic context.

But if the transpositions of psychoanalytic concepts into political theory are epistemically questionable, as I believe they are,8 the question is: why are they so prevalent? Perhaps the psychoanalytic interpretation of collective subjects (nations, regions, etc.), or even the psychoanalytic interpretation of powerful political figures, registers a certain anxiety regarding political impotence and provokes a fantasy that, to an extent, pacifies and modifies—defends against—that anxiety. Perhaps such engagements, which are increasingly prevalent in these days of excruciating political alienation, operate within a fantasmatic frame wherein the anxiety of political exclusion and “castration”—that is, anxieties pertaining to a sense of oneself as politically inefficacious, a non-agent in most relevant senses—is both registered and mitigated by the fantasmatic satisfaction of imagining oneself interpretively intervening in the lives of political figures or collective political subjects with the efficacy of a clinically successful psychoanalytic interpretation.

To risk a hypothesis: as alienation from political efficacy increases and becomes more palpable, as our sense of ourselves as political agents diminishes, fantasies of interpretive intervention abound. Within such fantasy frames, one approaches a powerful political figure (or collective subject) as if s/he were “on the couch,” open and amenable to one’s interpretation. 9 One approaches such a powerful political figure or ethnic group or nation as if s/he (or it) desired one’s interpretations and acknowledged her/his suffering, at least implicitly, by her/his very involvement in the scene of analysis.

Or if such fantasies also provide for the satisfaction of sadistic desires provoked by political frustration and “castration” (a sense of oneself as politically voiceless, moot, uninvolved, irrelevant), as they very well might, then one’s place within the fantasy might be that of the all-powerful analyst, the sujet supposé savoir, the analyst presumptively in control of her-/himself and her/his emotions, etc. Here the analyst becomes the one who directs and organizes the analytic encounter, who commands psychoanalytic knowledge, who knows the analysand inside and out, to whom the analysand must speak, upon whom the analysand depends, who is in a position of having something to offer, whose advice—even if not directly heeded—cannot but make some sort of impact, and in the face of whom the analysand is quite vulnerable, who is thus powerful, in control . . . perhaps the very figure whom the psychoanalytically inclined interpreter fears.

Minimally, what I want to underscore here is that (1) a sense of political alienation may be registered and fantasmatically mitigated by treating political subjects, individual or collective, as if they were “on the couch”; and (2) expectations concerning the expository and therapeutic efficacy of psychoanalytic interpretations of political subjects may be conditioned by such a fantasy.

**Not a prior question. Default to specific, testable truth claims**

Yudkowsky 6 (Eliezer, Singularity Institute for AI Research Fellow and Director, 8/31, Cognitive Biases Potentially Affecting Judgment of Global Risk, http://www.singinst.org/ourresearch/publications/cognitive-biases.pdf)

Every true idea which discomforts you will seem to match the pattern of at least one psychological error.

Robert Pirsig said: "The world's biggest fool can say the sun is shining, but that doesn't make it dark out." if you believe someone is guilty of a psychological error, then demonstrate your competence by first demolishing their consequential factual errors. If there are no factual errors, then what matters the psychology? The temptation of psychology is that, knowing a little psychology, we can meddle in arguments where we have no technical expertise - instead sagely analyzing the psychology of the disputants. If someone wrote a novel about an asteroid strike destroying modern civilization, then someone might criticize that novel as extreme, dystopian, apocalyptic; symptomatic of the author's naive inability to deal with a complex technological society. We should recognize this as a literary criticism, not a scientific one; it is about good or bad novels, not good or bad hypotheses. To quantify the annual probability of an asteroid strike in real life, one must study astronomy and the historical record: no amount of literary criticism can put a number on it. Garreau (2005) seems to hold that a scenario of a mind slowly increasing in capability, is more mature and sophisticated than a scenario of extremely rapid intelligence increase. But that's a technical question, not a matter of taste; no amount of psychologizing can tell you the exact slope of that curve. It's harder to abuse heuristics and biases than psychoanalysis. Accusing someone of conjunction fallacy leads naturally into listing the specific details that you think are burdensome and drive down the joint probability. Even so, do not lose track of the real- world facts of primary interest; do not let the argument become about psychology. Despite all dangers and temptations, it is better to know about psychological biases than to not know. Otherwise we will walk directly into the whirling helicopter blades of life. But be very careful not to have too much fun accusing others of biases. That is the road that leads to becoming a sophisticated arguer - someone who, faced with any discomforting argument, finds at once a bias in it. The one whom you must watch above all is yourself. Jerry Cleaver said: "what does you in is not failure to apply some high-level, intricate, complicated technique. It's overlooking the basics. Not keeping your eye on the ball." analyses should finally center on testable real-world assertions. Do not take your eye off the ball.

**The 1ac lacks evidence for its assertions and lacks a coherent method for generating its own truth claims – their authors are blinded by their anti-Western ideology and unconcerned with showing supporting data – this prevents generating any useful alternative**

**Jones and Smith, 9** - \* University of Queensland, Queensland, Australia AND \*\* King's College, University of London, London, UK (David and M.L.R.,“We're All Terrorists Now: Critical—or Hypocritical—Studies “on” Terrorism?,” Studies in Conflict & Terrorism, Volume [32](http://www.informaworld.com.proxy.lib.umich.edu/smpp/title~db%3Dall~content%3Dt713742821~tab%3Dissueslist~branches%3D32#v32), Issue [4](http://www.informaworld.com.proxy.lib.umich.edu/smpp/title~db%3Dall~content%3Dg909981711)April 2009 , pages 292 **–** 302**,** Taylor and Francis)

The journal, in other words, is not intended, as one might assume, to evaluate critically those state or non-state actors that might have recourse to terrorism as a strategy. Instead, the journal's ambition is to deconstruct what it views as the ambiguity of the word “terror,” its manipulation by ostensibly liberal democratic state actors, and the complicity of “orthodox” terrorism studies in this authoritarian enterprise. Exposing the deficiencies in any field of study is, of course, a legitimate scholarly exercise, but what the symposium introducing the new volume announces questions both the research agenda and academic integrity of journals like *Studies in Conflict and Terrorism* and those who contribute to them. Do these claims, one might wonder, have any substance?

Significantly, the original proposal circulated by the publisher Routledge and one of the editors, Richard Jackson, suggested some uncertainty concerning the preferred title of the journal. *Critical Studies on Terrorism* appeared last on a list where the first choice was *Review of Terror Studies*. Evidently, the concision of a review fails to capture the critical perspective the journal promotes. Criticism, then, is central to the new journal's philosophy and the adjective connotes a distinct ideological and, as shall be seen, far from pluralist and inclusive purpose. So, one might ask, what exactly does a critical approach to terrorism involve?

What it Means to be Critical

The editors and contributors explore what it means to be “critical” in detail, repetition, and opacity, along with an excessive fondness for italics, in the editorial symposium that introduces the first issue, and in a number of subsequent articles. The editors inform us that the study of terrorism is “a growth industry,” observing with a mixture of envy and disapproval that “literally thousands of new books and articles on terrorism are published every year” (pp. l-2). In adding to this literature the editors premise the need for yet another journal on their resistance to what currently constitutes scholarship in the field of terrorism study and its allegedly uncritical acceptance of the Western democratic state's security perspective.

Indeed, to be critical requires a radical reversal of what the journal assumes to be the typical perception of terrorism and the methodology of terrorism research. To focus on the strategies practiced by non-state actors that feature under the conventional denotation “terror” is, for the critical theorist, misplaced. As the symposium explains, “acts of clandestine non-state terrorism are committed by a tiny number of individuals and result in between a few hundred and a few thousand casualties *per year over the entire world*” (original italics) (p. 1). The United States's and its allies' preoccupation with terrorism is, therefore, out of proportion to its effects.[1](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0001) At the same time, the more pervasive and repressive terror practiced by the state has been “silenced from public and … academic discourse” (p. 1).

The complicity of terrorism studies with the increasingly authoritarian demands of Western, liberal state and media practice, together with the moral and political blindness of established terrorism analysts to this relationship forms the journal's overriding assumption and one that its core contributors repeat ad nauseam. Thus, Michael Stohl, in his contribution “Old Myths, New Fantasies and the Enduring Realities of Terrorism” (pp. 5-16), not only discovers ten “myths” informing the understanding of terrorism, but also finds that these myths reflect a “state centric security focus,” where analysts rarely consider “the violence perpetrated by the state” (p. 5). He complains that the press have become too close to government over the matter. Somewhat contradictorily Stohl subsequently asserts that media reporting is “central to terrorism and counter-terrorism as political action,” that media reportage provides the oxygen of terrorism, and that politicians consider journalists to be “the terrorist's best friend” (p. 7).

Stohl further compounds this incoherence, claiming that “the media are far more likely to focus on the destructive actions, rather than on … grievances or the social conditions that breed [terrorism]—to present episodic rather than thematic stories” (p. 7). He argues that terror attacks between 1968 and 1980 were scarcely reported in the United States, and that reporters do not delve deeply into the sources of conflict (p. 8). All of this is quite contentious, with no direct evidence produced to support such statements. The “media” is after all a very broad term, and to assume that it is monolithic is to replace criticism with conspiracy theory. Moreover, even if it were true that the media always serves as a government propaganda agency, then by Stohl's own logic, terrorism as a method of political communication is clearly futile as no rational actor would engage in a campaign doomed to be endlessly misreported.

Nevertheless, the notion that an inherent pro-state bias vitiates terrorism studies pervades the critical position. Anthony Burke, in “The End of Terrorism Studies” (pp. 37-49), asserts that established analysts like Bruce Hoffman “specifically exclude states as possible perpetrators” of terror. Consequently, the emergence of “critical terrorism studies” “may signal the end of a particular kind of traditionally state-focused and directed 'problem-solving' terrorism studies—at least in terms of its ability to assume that its categories and commitments are immune from challenge and correspond to a stable picture of reality” (p. 42).

Elsewhere, Adrian Guelke, in “Great Whites, Paedophiles and Terrorists: The Need for Critical Thinking in a New Era of Terror” (pp. 17-25), considers British government-induced media “scare-mongering” to have legitimated an “authoritarian approach” to the purported new era of terror (pp. 22-23). Meanwhile, Joseba Zulaika and William A. Douglass, in “The Terrorist Subject: Terrorist Studies and the Absent Subjectivity” (pp. 27-36), find the War on Terror constitutes “*the* single,” all embracing paradigm of analysis where the critical voice is “not allowed to ask: what is the reality itself?” (original italics) (pp. 28-29). The construction of this condition, they further reveal, if somewhat abstrusely, reflects an abstract “desire” that demands terror as “an ever-present threat” (p. 31). In order to sustain this fabrication: “Terrorism experts and commentators” function as “realist policemen”; and not very smart ones at that, who while “gazing at the evidence” are “unable to read the paradoxical logic of the desire that fuels it, whereby *lack* turns to*excess*” (original italics) (p. 32). Finally, Ken Booth, in “The Human Faces of Terror: Reflections in a Cracked Looking Glass” (pp. 65-79), reiterates Richard Jackson's contention that state terrorism “is a much more serious problem than non-state terrorism” (p. 76).

Yet, one searches in vain in these articles for evidence to support the ubiquitous assertion of state bias: assuming this bias in conventional terrorism analysis as a fact seemingly does not require a corresponding concern with evidence of this fact, merely its continual reiteration by conceptual fiat. A critical perspective dispenses not only with terrorism studies but also with the norms of accepted scholarship. Asserting what needs to be demonstrated commits, of course, the elementary logical fallacy *petitio principii*. But critical theory apparently emancipates (to use its favorite verb) its practitioners from the confines of logic, reason, and the usual standards of academic inquiry.

Alleging a constitutive weakness in established scholarship without the necessity of providing proof to support it, therefore, appears to define the critical posture. The unproved “state centricity” of terrorism studies serves as a platform for further unsubstantiated accusations about the state of the discipline. Jackson and his fellow editors, along with later claims by Zulaika and Douglass, and Booth, again assert that “orthodox” analysts rarely bother “to interview or engage with those involved in 'terrorist' activity” (p. 2) or spend any time “on the ground in the areas most affected by conflict” (p. 74). Given that Booth and Jackson spend most of their time on the ground in Aberystwyth, Ceredigion, not a notably terror rich environment if we discount the operations of *Meibion Glyndwr* who would as a matter of principle avoid *pob sais* like Jackson and Booth, this seems a bit like the pot calling the kettle black. It also overlooks the fact that *Studies in Conflict and Terrorism* first advertised the problem of “talking to terrorists” in 2001 and has gone to great lengths to rectify this lacuna, if it is one, regularly publishing articles by analysts with first-hand experience of groups like the Taliban, Al Qaeda and *Jemaah Islamiyah*.

A consequence of avoiding primary research, it is further alleged, leads conventional analysts uncritically to apply psychological and problem-solving approaches to their object of study. This propensity, Booth maintains, occasions another unrecognized weakness in traditional terrorism research, namely, an inability to engage with “the particular dynamics of the political world” (p. 70). Analogously, Stohl claims that “the US and English [sic] media” exhibit a tendency to psychologize terrorist acts, which reduces “structural and political problems” into issues of individual pathology (p. 7). Preoccupied with this problem-solving, psychopathologizing methodology, terrorism analysts have lost the capacity to reflect on both their practice and their research ethics.

By contrast, the critical approach is not only self-reflective, but also and, for good measure, self-reflexive. In fact, the editors and a number of the journal's contributors use these terms interchangeably, treating a reflection and a reflex as synonyms (p. 2). A cursory encounter with the *Shorter Oxford Dictionary* would reveal that they are not. Despite this linguistically challenged misidentification, “reflexivity” is made to do a lot of work in the critical idiom. Reflexivity, the editors inform us, requires a capacity “to challenge dominant knowledge and understandings, is sensitive to the politics of labelling … is transparent about its own values and political standpoints, adheres to a set of responsible research ethics, and is committed to a broadly defined notion of emancipation” (p. 2). This covers a range of not very obviously related but critically approved virtues. Let us examine what reflexivity involves as Stohl, Guelke, Zulaika and Douglass, Burke, and Booth explore, somewhat repetitively, its implications.

Reflexive or Defective?

Firstly, to challenge dominant knowledge and understanding and retain sensitivity to labels leads inevitably to a fixation with language, discourse, the ambiguity of the noun, terror, and its political use and abuse. Terrorism, Booth enlightens the reader unremarkably, is “a politically loaded term” (p. 72). Meanwhile, Zulaika and Douglass consider terror “the dominant tropic [sic] space in contemporary political and journalistic discourse” (p. 30). Faced with the “serious challenge” (Booth p. 72) and pejorative connotation that the noun conveys, critical terrorologists turn to deconstruction and bring the full force of postmodern obscurantism to bear on its use. Thus the editors proclaim that terrorism is “one of the most powerful signifiers in contemporary discourse.” There is, moreover, a “yawning gap between the 'terrorism' signifier and the actual acts signified” (p. 1). “[V]irtually all of this activity,” the editors pronounce *ex cathedra*, “refers to the *response* to acts of political violence not the violence itself” (original italics) (p. 1). Here again they offer no evidence for this curious assertion and assume, it would seem, all conventional terrorism studies address issues of homeland security.

In keeping with this critical orthodoxy that he has done much to define, Anthony Burke also asserts the “instability (and thoroughly politicized nature) of the unifying master-terms of our field: 'terror' and 'terrorism'” (p. 38). To address this he contends that a critical stance requires us to “keep this radical instability and inherent politicization of the concept of terrorism at the forefront of its analysis.” Indeed, “without a conscious reflexivity about the most basic definition of the object, our discourse will not be critical at all” (p. 38). More particularly, drawing on a jargon-infused amalgam of Michel Foucault's identification of a relationship between power and knowledge, the neo-Marxist Frankfurt School's critique of democratic false consciousness, mixed with the existentialism of the Third Reich's favorite philosopher, Martin Heidegger, Burke “*questions the question*.” This intellectual *potpourri* apparently enables the critical theorist to “question the ontological status of a 'problem' before any attempt to map out, study or resolve it” (p. 38).

Interestingly, Burke, Booth, and the symposistahood deny that there might be objective data about violence or that a properly focused strategic study of terrorism would not include any prescriptive goodness or rightness of action. While a strategic theorist or a skeptical social scientist might claim to consider only the complex relational situation that involves as well as the actions, the attitude of human beings to them, the critical theorist's radical questioning of language denies this possibility.

The critical approach to language and its deconstruction of an otherwise useful, if imperfect, political vocabulary has been the source of much confusion and inconsequentiality in the practice of the social sciences. It dates from the relativist pall that French radical post structural philosophers like Gilles Deleuze and Felix Guattari, Foucault, and Jacques Derrida, cast over the social and historical sciences in order to demonstrate that social and political knowledge depended on and underpinned power relations that permeated the landscape of the social and reinforced the liberal democratic state. This radical assault on the possibility of either neutral fact or value ultimately functions unfalsifiably, and as a substitute for philosophy, social science, and a real theory of language.

The problem with the critical approach is that, as the Australian philosopher John Anderson demonstrated, to achieve a genuine study one must either investigate the facts that are talked about or the fact that they are talked about in a certain way. More precisely, as J.L. Mackie explains, “if we concentrate on the uses of language we fall between these two stools, and we are in danger of taking our discoveries about manners of speaking as answers to questions about what is there.”[2](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0002) Indeed, in so far as an account of the use of language spills over into ontology it is liable to be a confused mixture of what should be two distinct investigations: the study of the facts about which the language is used, and the study of the linguistic phenomena themselves.

It is precisely, however, this confused mixture of fact and discourse that critical thinking seeks to impose on the study of terrorism and infuses the practice of critical theory more generally. From this confused seed no coherent method grows.

What is To Be Done?

This ontological confusion notwithstanding, Ken Booth sees critical theory not only exposing the dubious links between power and knowledge in established terrorism studies, but also offering an ideological agenda that transforms the face of global politics. “[*C*]*ritical knowledge*,” Booth declares, “*involves understandings of the social world that attempt to stand outside prevailing structures, processes, ideologies and orthodoxies while recognizing that all conceptualizations within the ambit of sociality derive from particular social/historical conditions*” (original italics) (p. 78). Helpfully, Booth, assuming the manner of an Old Testament prophet, provides his critical disciples with “*big-picture* navigation aids” (original italics) (p. 66) to achieve this higher knowledge. Booth promulgates fifteen commandments (as Clemenceau remarked of Woodrow Wilson's nineteen points, in a somewhat different context, “God Almighty only gave us ten”). When not stating the staggeringly obvious, the Ken Commandments are hopelessly contradictory. Critical theorists thus should “avoid exceptionalizing the study of terrorism,”[3](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0003) “recognize that states can be agents of terrorism,” and “keep the long term in sight.” Unexceptional advice to be sure and long recognized by more traditional students of terrorism. The critical student, if not fully conversant with critical doublethink, however, might find the fact that she or he lives within “Powerful theories” that are “constitutive of political, social, and economic life” (6th Commandment, p. 71), sits uneasily with Booth's concluding injunction to “stand outside” prevailing ideologies (p. 78).

In his preferred imperative idiom, Booth further contends that terrorism is best studied in the context of an “academic international relations” whose role “is not only to interpret the world but to change it” (pp. 67-68). Significantly, academic—or more precisely, critical—international relations, holds no place for a realist appreciation of the status quo but approves instead a Marxist ideology of praxis. It is within this transformative praxis that critical theory situates terrorism and terrorists.

The political goals of those non-state entities that choose to practice the tactics of terrorism invariably seek a similar transformative praxis and this leads “critical global theorizing” into a curiously confused empathy with the motives of those engaged in such acts, as well as a disturbing relativism. Thus, Booth again decrees that the gap between “those who hate terrorism and those who carry it out, those who seek to delegitimize the acts of terrorists and those who incite them, and those who abjure terror and those who glorify it—is not as great as is implied or asserted by orthodox terrorism experts, the discourse of governments, or the popular press” (p. 66). The gap “between us/them is a slippery slope, not an unbridgeable political and ethical chasm” (p. 66). So, while “terrorist actions are always—without exception—wrong, they nevertheless might be contingently excusable” (p. 66). From this ultimately relativist perspective gang raping a defenseless woman, an act of terror on any critical or uncritical scale of evaluation, is, it would seem, wrong but potentially excusable.

On the basis of this worrying relativism a further Ken Commandment requires the abolition of the discourse of evil on the somewhat questionable grounds that evil releases agents from responsibility (pp. 74-75). This not only reveals a profound ignorance of theology, it also underestimates what Eric Voeglin identified as a central feature of the appeal of modern political religions from the Third Reich to Al Qaeda. As Voeglin observed in 1938, the Nazis represented an “attractive force.” To understand that force requires not the abolition of evil [so necessary to the relativist] but comprehending its attractiveness. Significantly, as Barry Cooper argues, “its attractiveness, [like that of al Qaeda] cannot fully be understood apart from its evilness.”[4](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0004)

The line of relativist inquiry that critical theorists like Booth evince toward terrorism leads in fact not to moral clarity but an inspissated moral confusion. This is paradoxical given that the editors make much in the journal's introductory symposium of their “responsible research ethics.” The paradox is resolved when one realizes that critical moralizing demands the “ethics of responsibility to the terrorist other.” For Ken Booth it involves, it appears, empathizing “with the ethic of responsibility” faced by those who, “in extremis” “have some explosives” (p. 76). Anthony Burke contends that a critically self-conscious normativism requires the analyst, not only to “critique” the “strategic languages” of the West, but also to “take in” the “side of the Other” or more particularly “engage” “with the highly developed forms of thinking” that provides groups like Al Qaeda “with legitimizing foundations and a world view of some profundity” (p. 44). This additionally demands a capacity not only to empathize with the “other,” but also to recognize that both Osama bin Laden in his *Messages to the West* and Sayyid Qutb in his Muslim Brotherhood manifesto *Milestones* not only offer “well observed” criticisms of Western decadence, but also “converges with elements of critical theory” (p. 45). This is not surprising given that both Islamist and critical theorists share an analogous contempt for Western democracy, the market, and the international order these structures inhabit and have done much to shape.

Histrionically Speaking

Critical theory, then, embraces relativism not only toward language but also toward social action. Relativism and the bizarre ethicism it engenders in its attempt to empathize with the terrorist other are, moreover, histrionic. As Leo Strauss classically inquired of this relativist tendency in the social sciences, “is such an understanding dependent upon our own commitment or independent of it?” Strauss explains, if it is independent, I am committed as an actor and I am uncommitted in another compartment of myself in my capacity as a social scientist. “In that latter capacity I am completely empty and therefore completely open to the perception and appreciation of all commitments or value systems.” I go through the process of empathetic understanding in order to reach clarity about my commitment for only a part of me is engaged in my empathetic understanding. This means, however, that “such understanding is not serious or genuine but histrionic.”[5](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0005) It is also profoundly dependent on Western liberalism. For it is only in an open society that questions the values it promotes that the issue of empathy with the non-Western other could arise. The critical theorist's explicit loathing of the openness that affords her histrionic posturing obscures this constituting fact.

On the basis of this histrionic empathy with the “other,” critical theory concludes that democratic states “do not always abjure acts of terror whether to advance their foreign policy objectives … or to buttress order at home” (p. 73). Consequently, Ken Booth asserts: “If terror can be part of the menu of choice for the relatively strong, it is hardly surprising it becomes a weapon of the relatively weak” (p. 73). Zulaika and Douglass similarly assert that terrorism is “always” a weapon of the weak (p. 33).

At the core of this critical, ethicist, relativism therefore lies a syllogism that holds all violence is terror: Western states use violence, therefore, Western states are terrorist. Further, the greater terrorist uses the greater violence: Western governments exercise the greater violence. Therefore, it is the liberal democracies rather than Al Qaeda that are the greater terrorists.

In its desire to empathize with the transformative ends, if not the means of terrorism generally and Islamist terror in particular, critical theory reveals itself as a form of Marxist unmasking. Thus, for Booth “*terror has multiple forms*” (original italics) and the real terror is economic, the product it would seem of “global capitalism” (p. 75). Only the *engagee* intellectual academic finding in deconstructive criticism the philosophical weapons that reveal the illiberal neo-conservative purpose informing the conventional study of terrorism and the democratic state's prosecution of counterterrorism can identify the real terror lurking behind the “manipulation of the politics of fear” (p. 75).

Moreover, the resolution of this condition of escalating violence requires not any strategic solution that creates security as the basis for development whether in London or Kabul. Instead, Booth, Burke, and the editors contend that the only solution to “the world-historical crisis that is facing human society globally” (p. 76) is universal human “emancipation.” This, according to Burke, is “the normative end” that critical theory pursues. Following Jurgen Habermas, the godfather of critical theory, terrorism is really a form of distorted communication. The solution to this problem of failed communication resides not only in the improvement of living conditions, and “the political taming of unbounded capitalism,” but also in “the telos of mutual understanding.” Only through this telos with its “strong normative bias towards non violence” (p. 43) can a universal condition of peace and justice transform the globe. In other words, the only ethical solution to terrorism is conversation: sitting around an un-coerced table presided over by Kofi Annan, along with Ken Booth, Osama bin Laden, President Obama, and some European Union pacifist sandalista, a transcendental communicative reason will emerge to promulgate norms of transformative justice. As Burke enunciates, the panacea of un-coerced communication would establish “a secularism that might create an enduring architecture of basic shared values” (p. 46).

In the end, un-coerced norm projection is not concerned with the world as it is, but how it ought to be. This not only compounds the logical errors that permeate critical theory, it advances an ultimately utopian agenda under the guise of *soi-disant* cosmopolitanism where one somewhat vaguely recognizes the “human interconnection and mutual vulnerability to nature, the cosmos and each other” (p. 47) and no doubt bursts into spontaneous chanting of Kumbaya.

In analogous visionary terms, Booth defines real security as emancipation in a way that denies any definitional rigor to either term. The struggle against terrorism is, then, a struggle for emancipation from the oppression of political violence everywhere. Consequently, in this Manichean struggle for global emancipation against the real terror of Western democracy, Booth further maintains that universities have a crucial role to play. This also is something of a concern for those who do not share the critical vision, as university international relations departments are not now, it would seem, in business to pursue dispassionate analysis but instead are to serve as cheerleaders for this critically inspired vision.

Overall, the journal's fallacious commitment to emancipation undermines any ostensible claim to pluralism and diversity. Over determined by this transformative approach to world politics, it necessarily denies the possibility of a realist or prudential appreciation of politics and the promotion not of universal solutions but pragmatic ones that accept the best that may be achieved in the circumstances. Ultimately, to present the world how it ought to be rather than as it is conceals a deep intolerance notable in the contempt with which many of the contributors to the journal appear to hold Western politicians and the Western media.[6](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0006)

It is the exploitation of this oughtistic style of thinking that leads the critic into a Humpty Dumpty world where words mean exactly what the critical theorist “chooses them to mean—neither more nor less.” However, in order to justify their disciplinary niche they have to insist on the failure of established modes of terrorism study. Having identified a source of government grants and academic perquisites, critical studies in fact does not deal with the notion of terrorism as such, but instead the manner in which the Western liberal democratic state has supposedly manipulated the use of violence by non-state actors in order to “other” minority communities and create a politics of fear.

Critical Studies and Strategic Theory—A Missed Opportunity

Of course, the doubtful contribution of critical theory by no means implies that all is well with what one might call conventional terrorism studies. The subject area has in the past produced superficial assessments that have done little to contribute to an informed understanding of conflict. This is a point readily conceded by John Horgan and Michael Boyle who put “A Case Against 'Critical Terrorism Studies'” (pp. 51-74). Although they do not seek to challenge the agenda, assumptions, and contradictions inherent in the critical approach, their contribution to the new journal distinguishes itself by actually having a well-organized and well-supported argument. The authors' willingness to acknowledge deficiencies in some terrorism research shows that critical self-reflection is already present in existing terrorism studies. It is ironic, in fact, that the most clearly reflective, original, and *critical* contribution in the first edition should come from established terrorism researchers who critique the critical position.

Interestingly, the specter haunting both conventional and critical terrorism studies is that both assume that terrorism is an existential phenomenon, and thus has causes and solutions. Burke makes this explicit: “The inauguration of this journal,” he declares, “indeed suggests broad agreement that there is a phenomenon called terrorism” (p. 39). Yet this is not the only way of looking at terrorism. For a strategic theorist the notion of terrorism does not exist as an independent phenomenon. It is an abstract noun. More precisely, it is merely a tactic—the creation of fear for political ends—that can be employed by any social actor, be it state or non-state, in any context, without any necessary moral value being involved.

Ironically, then, strategic theory offers a far more “critical perspective on terrorism” than do the perspectives advanced in this journal. Guelke, for example, propounds a curiously orthodox standpoint when he asserts: “to describe an act as one of terrorism, without the qualification of quotation marks to indicate the author's distance from such a judgement, is to condemn it as absolutely illegitimate” (p. 19). If you are a strategic theorist this is an invalid claim. Terrorism is simply a method to achieve an end. Any moral judgment on the act is entirely separate. To fuse the two is a category mistake. In strategic theory, which Guelke ignores, terrorism does not, ipso facto, denote “absolutely illegitimate violence.”

Intriguingly, Stohl, Booth, and Burke also imply that a strategic understanding forms part of their critical viewpoint. Booth, for instance, argues in one of his commandments that terrorism should be seen as a conscious human choice. Few strategic theorists would disagree. Similarly, Burke feels that there does “appear to be a consensus” that terrorism is a “form of instrumental political violence” (p. 38). The problem for the contributors to this volume is that they cannot emancipate themselves from the very orthodox assumption that the word terrorism is pejorative. That may be the popular understanding of the term, but inherently terrorism conveys no necessary connotation of moral condemnation. “Is terrorism a form of warfare, insurgency, struggle, resistance, coercion, atrocity, or great political crime,” Burke asks rhetorically. But once more he misses the point. All violence is instrumental. Grading it according to whether it is insurgency, resistance, or atrocity is irrelevant. Any strategic actor may practice forms of warfare. For this reason Burke's further claim that existing definitions of terrorism have “specifically excluded states as possible perpetrators and privilege them as targets,” is wholly inaccurate (p. 38). Strategic theory has never excluded state-directed terrorism as an object of study, and neither for that matter, as Horgan and Boyle point out, have more conventional studies of terrorism.

Yet, Burke offers—as a critical revelation—that “the strategic intent behind the US bombing of North Vietnam and Cambodia, Israel's bombing of Lebanon, or the sanctions against Iraq is also terrorist.” He continues: “My point is not to remind us that states practise terror, but to show how mainstream *strategic doctrines* are terrorist in these terms and undermine any prospect of achieving the normative consensus if such terrorism is to be reduced and eventually eliminated” (original italics) (p. 41). This is not merely confused, it displays remarkable nescience on the part of one engaged in teaching the next generation of graduates from the Australian Defence Force Academy. Strategic theory conventionally recognizes that actions on the part of state or non-state actors that aim to create fear (such as the allied aerial bombing of Germany in World War II or the nuclear deterrent posture of Mutually Assured Destruction) can be terroristic in nature.[7](http://www.informaworld.com.proxy.lib.umich.edu/smpp/section?content=a909959026&fulltext=713240928#EN0007) The problem for critical analysts like Burke is that they impute their own moral valuations to the term terror. Strategic theorists do not. Moreover, the statement that this undermines any prospect that terrorism can be eliminated is illogical: you can never eliminate an abstract noun.

Consequently, those interested in a truly “critical” approach to the subject should perhaps turn to strategic theory for some relief from the strictures that have traditionally governed the study of terrorism, not to self-proclaimed critical theorists who only replicate the flawed understandings of those whom they criticize. Horgan and Boyle conclude their thoughtful article by claiming that critical terrorism studies has more in common with traditional terrorism research than critical theorists would possibly like to admit. These reviewers agree: they are two sides of the same coin.

Conclusion

In the looking glass world of critical terror studies the conventional analysis of terrorism is ontologically challenged, lacks self-reflexivity, and is policy oriented. By contrast, critical theory's ethicist, yet relativist, and deconstructive gaze reveals that we are all terrorists now and must empathize with those sub-state actors who have recourse to violence for whatever motive. Despite their intolerable othering by media and governments, terrorists are really no different from us. In fact, there is terror as the weapon of the weak and the far worse economic and coercive terror of the liberal state. Terrorists therefore deserve empathy and they must be discursively engaged.

At the core of this understanding sits a radical pacifism and an idealism that requires not the status quo but communication and “human emancipation.” Until this radical post-national utopia arrives both force and the discourse of evil must be abandoned and instead therapy and un-coerced conversation must be practiced. In the popular ABC drama *Boston Legal* Judge Brown perennially referred to the vague, irrelevant, jargon-ridden statements of lawyers as “jibber jabber.” The Aberystwyth-based school of critical internationalist utopianism that increasingly dominates the study of international relations in Britain and Australia has refined a higher order incoherence that may be termed Aber jabber. The pages of the journal of *Critical Studies on Terrorism* are its natural home.

**Their criticism is based on a poorly researched caricature of terrorism studies, orthodox analysis includes a self-reflexive element that makes the permutation more likely to succeed than the alternative. Pure rejection of the Western social order won’t replace terrorism discourse and is likely to reinforce the totalitarian impulse of al Qaeda**

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The editors accuse, in their introduction  “the orthodox field” of orthodox terrorism studies of functioning “ideologically in the service of existing power structures”, with their academic research. Furthermore, they claim that orthodox scholars are frequently being used “to legitimise coercive intervention in the global South….” (p.6). The present volume is edited by three authors associated with the Centre for the Study of Radicalisation and Contemporary Political Violence (CSRV) in the Department of International Politics in Aberystwyth (Wales, UK). They also happen to be editors of a new Routledge journal “Critical Studies on Terrorism’ . The “critical” refers principally but not exclusively to the “Frankfurt-via-Welsh School Critical Theory Perspective”. The twelve contributors are not all equally “critical” in aHabermasian sense. The programmatic introduction of the editors is followed by two solid chapters from Magnus Ranstorp (former Director of CSTPV, St. Andrews, and currently Director of the Centre for Asymmetric Threat Studies at the Swedish National Defence College) and Andrew Silke (formerly with the UK Home Office and now Field Leader for Criminology at the University of East London). They both rightfully criticize some of the past sins and present shortcomings of the field of Terrorism Studies. One of them approvingly quotes Marc Sageman who observed that “disagreements among experts are the driving force of the scientific enterprise”. Such disagreements, however, exist among “orthodox” scholars like Sageman and  Hoffman or Pape and Abrams. In that sense, the claim by some critical theorists that the field of traditional Terrorism Studies is ossified without them, is simply is not true. One of the problems with many of the adherents of the “critical” school is that the focus is almost exclusively on the strawman they set up to shoot - ”orthodox” terrorism discourse rather than on the practitioners of terrorism. Richard Jackson claims that “…most of what is accepted as well-founded ‘knowledge’ in terrorism studies is, in fact, highly debatable and unstable” (p.74), dismissing thereby almost four decades of scholarship as “based on a series of ‘virulent myths’, ‘half-truths’ and contested claims…biased towards Western state priorities” (p.80). For him “terrorism is…a social fact rather than a brute fact” and “…does not exist outside of the definitions and practices which seek to enclose it, including those of the terrorism studies field” (pp.75-76). He objects to prevailing “problem-solving theories of terrorism” in favour of an approach that questions “ the status quo and the dominant acts within it” (p.77). Another contributor, J.A. Sluka, argues, without offering any proof,  that “terrorism is fundamentally a product of social inequality and state politics” (p. 139). Behind many of the critical theorists who blame mainstream terrorism research for taking ‘the world as it finds it’ there is an agenda for changing the status quo and overthrowing existing power structures. There is, in itself, nothing wrong with wanting a new and better world order. However, it is not going to be achieved by using an alternative discourse on terrorism and counter-terrorism. Toros and Gunning, contributors of another chapter, state that “the sine qua non of Critical Theory is emancipation” (p. 99) and M. McDonald als puts “emancipation as central to the study of terrorism” (p.121). However, there is not a single word on the non-emancipated position of women under Islam in general or among the Taliban and their friends from al-Qaeda in particular. One of the strength (some argue weakness) of Western thinking is its ability for self-criticism – something largely absent in the Muslim world. In that sense, this volume falls within a Western tradition. However, self-criticism should not come at the cost of not criticising   adversaries by using the same yardstick. In this sense, this volume is strangely silent about the worldview of those terrorists who have no self-doubts and attack the Red Cross,  the United Nations, NGOs and their fellow Muslims with equal lack of scruples. A number of authors in the volume appear to equate terrorism uncritically with political violence in general while in fact it is more usefully thought of as one of some twenty sub-categories of  political violence - one characterized by deliberate attacks on civilians and non-combatants in order to intimidate, coerce or otherwise manipulate  various audiences and parties to a conflict. Part of the volume advocates reinventing the wheel. J. Gunning, for instance, recommends to employ Social Movement Theory for the study of terrorism. However, that theory has been employed already explicitly or implicitly by a number of more orthodox scholars, e.g. Donatella della Porta. Many “critical” statements in the volume are unsupported by convincing evidence, e.g. when C. Sylvester and S. Parashar state “The September 11 attacks and the ongoing war on terror reinforce gender hierarchy and power in international relations” (p.190). Jackson claims that the key question  for critical terrorism theory is “who is terrorism research for and how does terrorism knowledge support particular interests?” (p.224) It does not seem to occur to him that he could have studied this question by looking at the practitioners of terrorism and study al-Qaeda’s ideological writings and its training  and  recruiting manuals. If CTS is a call for “making a commitment to emancipatory praxis central to the research enterprise” (R. Jackson et al, p. 228), CTS academics should be the first on the barricades against jihadists who treat women not as equals and who would, if they get their way, eradicate freedom of thought and religion for all mankind. It is sad that some leading proponents of Critical Terrorism Studies appear to be in fact uncritical and blind on one eye.

**The discourse of historical events such as 9/11 as “ruptures” that “change everything” is a form of historical bracketing that facilitates colonial amnesia and legitimizes violent power relations**

Hecht ‘2 Gabriel, Professor of Anthropology @ University of Michigan, “Rupture-Talk in the Nuclear Age:

Conjugating Colonial Power in Africa”

http://www-personal.umich.edu/~hechtg/articles/rupture-talk.pdf

This paper explores two areas usually left off the nuclear map: Madagascar and Gabon, where the French mined and processed uranium ore, starting in the 1950s. I analyse how the twin rupture-talks of nuclearity and decolonization became intertwined, first by examining the production of these rupture-talks by French expatriates, then by exploring how sociotechnical practices at each site both belied and performed claims to rupture for African mineworkers. I thus aim to go beyond the ritual debunking of rupture-talk, in which scholars demonstrate that the sharp breaks proclaimed by ´elites masked profound continuities. Tracing continuity *is* important: uranium mining in Africa *was* strongly shaped by colonialism, and any changes it wrought were neither big nor sudden. At the same time, nuclear and **postcolonial rupture-talk were far more than mere rhetoric. Rupture-talk had material effects. It was inscribed in sociotechnical practice, it staked claims to power, and it created expectations among both ´elites and non-´elites.** The tensions between rupture-talk and colonial continuities created spaces within which nuclearity and decolonization confronted and shaped one another. *Via* the sociotechnical practices produced by these tensions, Malagasy and Gabonese negotiated the realities of decolonization, and the local meanings of the nuclear age. One source of tension between rupture-talk and colonial continuity, I argue, was the mapping of sociotechnical practices on to racial and ethnic hierarchies, and on to ideas about citizenship and the state. French engineers and geologists helped to mutate the ‘civilizing mission’ into developmentalist discourse by proclaiming the end of racial divisions and the triumph of technological skill as the foundation of social relations.4 I show that technological knowledge did offer some Malagasy and Gabonese a mechanism for economic and social mobility, but race never dropped out of the equation. A second source of tension concerned mobility itself, both physical and social. Geological necessity demanded ongoing prospecting, both locally and globally.5 Uranium mining was thus an inherently mobile practice, and geographical motion provided opportunities for social mobility. Malagasy and Gabonese who acquired the sociotechnical skills needed for prospecting (and a few other domains) had good career prospects. For French experts, meanwhile, a stint overseas offered a fast track up. As we will see, mobility as a sociotechnical practice could involve moving up, moving away, or even staying put. Throughout my analysis, I argue that **sociotechnical practices ‘conjugated’ colonial power relations.** This metaphor requires explanation.6 Conjugating a verb preserves its root while changing either its tense, its subject (person), or both. Conjugation transforms the meaning of a sentence by shifting its time frame or by changing who performs the action. Sometimes these are radical transformations, sometimes not. Conjugation thus enacts continuity and change simultaneously. When I say that sociotechnical practices conjugated colonial power relations, therefore, I am both highlighting the dynamics between rupture-talk and continuity and emphasizing their inseparability. **I aim to call attention not simply to a *disjunction* between real and imagined technological futures (the time-shift produced by conjugation), but also to the *relationship* between these futures.** I hope to show not just *that* Africans shaped both nuclearity and decolonization (the subject-shift produced by conjugation), but also *how* their involvement mattered.