# Speech 1AC Loyola Rd 4 vs Evergreen 9-4 7PM

### FW

#### Perspectivism is true –

#### 1] Opacity – we can never access another person’s perspective because we can never fully understand who someone else is or what they think. Every truth I create cannot be universalized because I can’t guarantee that they will create the same truth because they do what they want.

#### 2] Resolvability – Centuries of moral debate proves we can’t come to an objectively correct answer so it has to be indexed to individual subjects. High school debaters can’t come to a correct conclusion on their own and moral dilemmas are too complicated to “solve” in 45 minutes, so you should prefer a perspectivist account.

#### 3] Objective reality is inconclusive – quantum superposition allows for different experiences to exist simultaneously.

MIT ’19 (Emerging Technology from the arXiv archive page; Covers latest ideas from blog post about arXiv; 03/12/2019; “Emerging Technology from the arXiv archive page”; <https://www.technologyreview.com/2019/03/12/136684/a-quantum-experiment-suggests-theres-no-such-thing-as-objective-reality/>; *MIT Technology Review*; accessed: 11/19/2020; MohulA)

Back in 1961, the Nobel Prize–winning physicist Eugene Wigner outlined a thought experiment that demonstrated one of the lesser-known paradoxes of quantum mechanics. The experiment shows how the strange nature of the universe allows two observers—say, Wigner and Wigner’s friend—to experience different realities. Since then, physicists have used the “Wigner’s Friend” thought experiment to explore the nature of measurement and to argue over whether objective facts can exist. That’s important because scientists carry out experiments to establish objective facts. But if they experience different realities, the argument goes, how can they agree on what these facts might be? That’s provided some entertaining fodder for after-dinner conversation, but Wigner’s thought experiment has never been more than that—just a thought experiment. Last year, however, physicists noticed that recent advances in quantum technologies have made it possible to reproduce the Wigner’s Friend test in a real experiment. In other words, it ought to be possible to create different realities and compare them in the lab to find out whether they can be reconciled. And today, Massimiliano Proietti at Heriot-Watt University in Edinburgh and a few colleagues say they have performed this experiment for the first time: they have created different realities and compared them. Their conclusion is that Wigner was correct—these realities can be made irreconcilable so that it is impossible to agree on objective facts about an experiment. Wigner’s original thought experiment is straightforward in principle. It begins with a single polarized photon that, when measured, can have either a horizontal polarization or a vertical polarization. But before the measurement, according to the laws of quantum mechanics, the photon exists in both polarization states at the same time—a so-called superposition. Wigner imagined a friend in a different lab measuring the state of this photon and storing the result, while Wigner observed from afar. Wigner has no information about his friend’s measurement and so is forced to assume that the photon and the measurement of it are in a superposition of all possible outcomes of the experiment. Wigner can even perform an experiment to determine whether this superposition exists or not. This is a kind of interference experiment showing that the photon and the measurement are indeed in a superposition. From Wigner’s point of view, this is a “fact”—the superposition exists. And this fact suggests that a measurement cannot have taken place. But this is in stark contrast to the point of view of the friend, who has indeed measured the photon’s polarization and recorded it. The friend can even call Wigner and say the measurement has been done (provided the outcome is not revealed). So the two realities are at odds with each other. “This calls into question the objective status of the facts established by the two observers,” say Proietti and co. That’s the theory, but last year Caslav Brukner, at the University of Vienna in Austria, came up with a way to re-create the Wigner’s Friend experiment in the lab by means of techniques involving the entanglement of many particles at the same time. The breakthrough that Proietti and co have made is to carry this out. “In a state-of-the-art 6-photon experiment, we realize this extended Wigner’s friend scenario,” they say. They use these six entangled photons to create two alternate realities—one representing Wigner and one representing Wigner’s friend. Wigner’s friend measures the polarization of a photon and stores the result. Wigner then performs an interference measurement to determine if the measurement and the photon are in a superposition. The experiment produces an unambiguous result. It turns out that both realities can coexist even though they produce irreconcilable outcomes, just as Wigner predicted. That raises some fascinating questions that are forcing physicists to reconsider the nature of reality. The idea that observers can ultimately reconcile their measurements of some kind of fundamental reality is based on several assumptions. The first is that universal facts actually exist and that observers can agree on them. But there are other assumptions too. One is that observers have the freedom to make whatever observations they want. And another is that the choices one observer makes do not influence the choices other observers make—an assumption that physicists call locality. If there is an objective reality that everyone can agree on, then these assumptions all hold. But Proietti and co’s result suggests that objective reality does not exist. In other words, the experiment suggests that one or more of the assumptions—the idea that there is a reality we can agree on, the idea that we have freedom of choice, or the idea of locality—must be wrong. Of course, there is another way out for those hanging on to the conventional view of reality. This is that there is some other loophole that the experimenters have overlooked. Indeed, physicists have tried to close loopholes in similar experiments for years, although they concede that it may never be possible to close them all. Nevertheless, the work has important implications for the work of scientists. “The scientific method relies on facts, established through repeated measurements and agreed upon universally, independently of who observed them,” say Proietti and co. And yet in the same paper, they undermine this idea, perhaps fatally. The next step is to go further: to construct experiments creating increasingly bizarre alternate realities that cannot be reconciled. Where this will take us is anybody’s guess. But Wigner, and his friend, would surely not be surprised.

#### 4] Subjectivity only has meaning when it interacts with other machines – there are no intrinsic values and a failure to recognize that stratifies subjects and reifies violence.

**Malins 04** [Brackets Original. Peta Malins (Program Manager of the Bachelor of Legal and Dispute Studies and a Lecturer in Criminology and Justice Studies @ RMIT University). “Machinic Assemblages: Deleuze, Guattari and an Ethico-Aesthetics of Drug Use”. The University of Melbourne. 2004. Accessed 2/19/21. http://janushead.org/wp-content/uploads/2020/06/Malins.pdf //Xu]

As an assemblage, a [drug using body] has only itself, in connection with other assemblages and in relation to other bodies without organs. We will never ask what a [drug using body] means, as signified or signifier; we will not look for anything to understand in it. We will ask what it functions with, in connection with what other things it does or does not transmit intensities, in which other multiplicities its own are inserted and metamorphosed, and with what bodies without organs it makes its own converge. A [drug using body] exists only through the outside and on the outside. A [drug using body] itself is a little machine (Deleuze and Guattari, 1988: 4)1 The work of Deleuze and Guattari is perhaps best conceived of as a ‘tool box’2 –as a collection of machinic concepts that can be plugged into other machines or concepts and made to work. This is how I approach their writing, and why–despite initial misgivings–I have transformed the above excerpt (surreptitiously replacing the concept ‘book’ with ‘drug using body’) to suit the purposes of this paper. In making this transformation, I soon discovered that it became a perfect little language-machine: not only articulating where I want to take the concept of drug use, but also [through its parentheses] expressing the open applicability of Deleuze and Guattari’s work. Insert body of choice: a sexual body; a bicycle, a language; a body of art; a film–the excerpt works for them all. In this openly mutating state the passage introduces some of the key concepts in Deleuze and Guattari’s philosophical project: becomings, rhizomatic connections, and multiplicities. It also, more explicitly, outlines their project to take thought (and ethics) away from internal meanings, causes, and essences, and toward surface effects, intensities and flows. However it is the particular concept of the body activated by the excerpt–the concept of the body as machinic assemblage–that I find most useful to the task of rethinking drug use. It is a concept that unravels the modern fantasy of the body as a stable, unified, bounded entity, and gives a language to the multitude of connections that bodies form with other bodies (human and otherwise). A body’s function or potential or ‘meaning’ becomes entirely dependent on which other bodies or machines it forms an assemblage with. Colebrook’s (2002) example of the bicycle is useful here: a bicycle is a machine that doesn’t begin to work or have a particular meaning until it connects up with another machine. When it connects up with a cyclist, it becomes a vehicle; when is placed in a gallery, it becomes an artwork. A cigarette is similarly multiple: when smoked it becomes a drug; when held seductively at the end of ones fingertips it becomes an object of beauty; when shown in a film it becomes a plot device (Klein, 1993). And a drug using body is no different: when it connects up to bicycle, it becomes a cyclist; to a cigarette, a smoker; to LSD, a tripper. The drug using body is multiple. While numerous writers have begun to make movements toward rethinking drug use via Deleuze and Guattari3 , very few have explored this intersection in detail4 . In this paper I will map out some of the specific implications of rethinking the drug using body in this way. I will begin by exploring what happens to the subject (the ‘drug user’, the ‘addict’) when the body becomes a multiplicity. Like Deleuze and Guattari: I will not ask what a drug using body ‘means’ or signifies; but rather, what affects its assemblages produce and what flows of desire they cut off (its components and affects). I will then explore Deleuze and Guattari’s own particularly bleak conception of drug-use, arguing that the pessimism it engenders can be strategically sidestepped using Deleuze and Guattari’s other philosophical tools. I will explore how we might productively approach drug use via a Deleuzian ethics, and will argue for a specific ethical rethinking of drug use according to the concepts of the machinic assemblage and rhizomatic multiplicities. A strategy with implications not only for social policy, but also for how we understand ourselves. And who we might become. Subjectivity and the drug using body Bodies that fall prey to transcendence are reduced to what seems to persist across their alterations. Their very corporeality is stripped from them, in favor of a supposed substrate–soul, subjectivity, personality, identity–which in fact is no foundation at all, but an end effect, the infolding of a forcibly regularized outside. (Massumi, 1992: 112) For Deleuze and Guattari a body (human, animal, social, chemical) has no interior truth or meaning; it exists only through its external connections and affects. They write: We know nothing about a body until we know what it can do, in other words, what its affects are, how they can or cannot enter into composition with other affects, with the affects of another body. (ATP5 : 257) So where does this leave the subject? And identity? If we are to talk only of the drug using body and its multiplicities–where does the ‘drug user’ or ‘addict’ disappear to? For Deleuze and Guattari the subject is nothing more (and nothing less) than a particular way in which bodies have become organised and stratified in the post-Enlightenment social world. In order to comprehend the ‘human’ body, the social world (or socius) reduces the complexity and chaos of an ever-changing multiplicity of bodily flux to discrete categories of meaning and constancy. Bodies become ordered and delimited according to hierarchical binary presuppositions: human/animal, man/woman, healthy/unhealthy, lawful/criminal, hetero/gay, clean/junkie. Binaries that bodies never fully correspond to: No real body ever entirely coincides with either category. A body only approaches its assigned category as a limit: it becomes more or less “feminine” or more or less “masculine” depending on the degree to which it conforms to the connections and trajectories laid out for it by society… “Man” and “Woman” as such have no reality other than that of logical abstraction. (Massumi, 1992: 86) Yet when bodies fall outside these binaries, or try to claim a different identity, they are rarely granted anything outside a third term (‘bi-sexual’, ‘reformedsmoker’) that remains reliant upon, and limited to, those binary relations. Multiplicities reduced to binaries and trinities. Manifold potential reduced to a discrete set of bodily possibilities. You will be a boy or a girl; a smoker or a non-smoker; a civilized human being (with all bodily parts fulfilling civilized ‘human’ functions)’ or an animal. Your choice. You will subscribe to modern selfhood (and all its bodily and linguistic demands) or you’ll be rejected: You will be organized, you will be an organism, you will articulate your body–otherwise you’re just depraved. You will be signifier and signified, interpreter and interpreted–otherwise you’re just a deviant. You will be a subject, nailed down as one, a subject of the enunciation recoiled into a subject of the statement–otherwise you’re just a tramp. (ATP: 159)

**This commits us to practical deliberation as the method of moral inquiry   
Serra 09**Juan Pablo Serra. What Is and What Should Pragmatic Ethics Be? Some Remarks on Recent Scholarship*.* EUROPEAN JOURNAL OF PRAGMATISM AND AMERICAN PHILOSOPHY. 2009. Francisco de Vitoria College, Humanities Department, Faculty member. https://journals.openedition.org/ejpap/905

This separation of theory and practice runs parallel to another split, namely, that of ethics and morals or, better put, of ethical theory and moral practice. Peirce denies that morality is subject to rationality and thinks that ethics is valuable as a science in a broad sense. But he also regards ethics as a science which bears on human conduct only indirectly, through the examination of past actions and the self-correction of the self in view of future action. In addition, ethics would be a normative knowledge only in so far as it analyzes the adjustment of actions to ends and in so far as it studies the general way in which a good life can be lived. In morals Peirce appeals to instinct and sentiment, and in ethics he recommends the use of logical thinking —just as scientists do. However, even within the framework of his system, it’s not obvious that scientists may so easily set aside their instincts —in fact, instinct (or ‘rational instinct’ as he called it in 1908) plays a significant role in the economy of re- search. Moreover, the statement that in moral issues there may be no possibility of carrying out an inquiry that is truth-oriented is not an uncontroversial one. After all, moral inquiry is performed in a deliberative way, weighing up argumentations, beliefs and principles, and comparing them either with their probable or conceivable consequences or with lived as well as possible experiences that can be forceful or impinge upon the deliberative subject in such a way as to acquire the compulsory resistance due to reality. As Misak puts it succint- ly, “the practice of moral deliberation is responsive to experience, reason, argument, and thought experiments... Such responsiveness is part of what it is to make a moral decision and part of what it is to try to live a moral life” (2000: 52)3. Likewise, this same deliberative activity implies an effort to acquire habits, beliefs and principles that contribute to a truly free deliberation which, in turn, can result in creative conclusions. For Peirce, as you get more habit-governed, you become more creative and free, and your selfhood acquires plas- ticity and receptiveness to experience4. Vincent Colapietro has referred to Peirce’s description of human reason in terms of a deliberative rationality (1999: 24). Also, in another place he has explained that deliberation for Peirce is a process of preparation for future action which has to do with the checking of previous acts, the rehearsal in imagination of different roads to be followed by possible conduct and the nurturing of ideals (Colapietro 1997: 270, 281). It is precisely this experi- ment carried out within imagination that generates habits, because, as Peirce says in “A Survey of Pragmaticism”, “it is not the muscular action but the accompanying inward ef- forts, the acts of imagination, that produce the habit” (CP 5.479, 1907). Habits are regular ways of thinking, perceiving and interpreting that generate actions. As such, habits have a huge influence on human behavior, manifest themselves in the con- crete things we do and, at the same time, are formed within those same activities. Even more, according to Peirce, the activity takes the form of experimentation in the inner world; and the conclusion (if it comes to a definite conclusion), is that under given conditions, the interpreter will have formed the habit of acting in a given way whenever he may desire a given kind of result. The real and living logical conclusion is that habit (CP 5.491, 1907). Much more evidence could be given to support the view that habits are virtually decided (CP 2.435, c.1893) and also that intelligence comprises inward or potential actions that in- fluence the formation of habits (CP 6.286, 1893). Suffice it to say that, according to Peirce, deliberation is a function of the imagination, and that imagination is in itself an experiment which may have unexpected consequences that impose themselves upon the deliberative subject.

#### Thus, the standard is consistency with pragmatic deliberation.

#### Impact Calc – deliberation is procedural, which means that agents ought to act in a deliberative fashion by employing the pragmatic procedure of deliberation, not the substance or conditions where deliberation can arise. To clarify, consequences are a sequencing question.

#### 1] Pluralistic Materialism – other theories rely on minimalistic criteria; our framework understands knowledge as changing and uses experience to base social change and revise ideas. Glaude 7Eddie S. (Eddie S. Glaude Jr. is the African-American chair of the Center for African-American Studies and the William S. Tod Professor of Religion and African-American Studies at Princeton University.) In a Shade of Blue : Pragmatism and the Politics of Black America. University of Chicago Press, 2007. EBSCOhost. (5-7)

In a Shade of Blue is my contribution to the tradition I have just sketched. My aim is to think through some of the more pressing conceptual problems confronting African American political life, and I do so as a Deweyan prag-matist. I should say a bit about what I mean by this self-description. John Dewey thought of philosophy as a form of cultural and social criticism. He held the view that philosophy, properly understood as a mode of wis-dom, ought to aid us in our efforts to overcome problematic situations and worrisome circumstances. The principal charge of the philosopher, then, is to deal with the problems of human beings, not simply with the problems of philosophers. For Dewey, over the course of his long career, this involved bridging the divide between science, broadly understood, and morals—a divide he traced to a conception of experience that has led philosophers over the centuries to tilt after windmills. Dewey declared, “The problem of restoring integration and co-operation between man’s beliefs about the world in which he lives and his beliefs about values and purposes that should direct his conduct is the deepest problem of any philosophy that is not isolated from life.”9Dewey bases this conclusion on several features of his philosophy: (1) anti foundationalism, (2) experimentalism, (3) contextualism, and (4) soli-darity.10 Antifoundationalism, of course, is the rejection of foundations of knowledge that are beyond question. Dewey, by contrast, understands knowledge to be the fruit of our undertakings as we seek “the enrichment of our immediate experience through the control over action it exercises.”11He insists that we turn our attention from supposed givens to actual consequences, pursuing a future fundamentally grounded in values shaped by experience and realized in our actions. This view makes clear the experimental function of knowledge. Dewey emphasized that knowledge entails efforts to control and select future experience and that we are always con-fronted with the possibility of error when we act. We experiment or tinker, with the understanding that all facts are fallible and, as such, occasionally afford us the opportunity for revision.12Contextualism refers to an understanding of beliefs, choices, and actions as historically conditioned. Dewey held the view that inquiry, or the pursuit of knowledge, is value-laden, in the sense that we come to problems with interests and habits that orient us one way or another, and that such pursuits are also situational, in the sense that “knowledge is pursued and produced somewhere, some when, and by someone.”13Finally, solidarity captures the associational and cooperative dimensions of Dewey’s thinking. Dewey conceives of his pragmatism as “an instrument of social improvement” aimed principally at expanding democratic life and broadening the ground of individual self-development.14Democracy, for him, constitutes more than a body of formal procedures; it is a form of life that requires constant attention if we are to secure the ideals that purportedly animate it. Individuality is understood as developing one’s unique capacities within the context of one’s social relations and one’s community. The formation of the democratic character so important to our form of associated living involves, then, a caring disposition toward the plight of our fellows and a watchful concern for the well-being of our democratic life.

#### 2] Best studies prove pluralistic tendencies are inevitable

Polzler 19[Thomas Pölzler and Jennifer Cole Wright- “Empirical research on folk moral objectivism” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6686698/> NCBI. Published July 5th 2019]

Examining these studies' results more closely, however, makes it less clear whether this interpretation is appropriate (Pölzler, 2018b). Take again Goodwin and Darley's study. In this study, almost 30% of subjects' responses to the disagreement measure and almost 50% of their responses to the truth‐aptness measure fell on the option that the researchers took to be indicative of subjectivism (Goodwin & Darley, 2008, pp. 1347, 1351). Moreover, while some moral statements were dominantly classified as objective (e.g., the above statement about robbery), many others were dominantly classified as nonobjective (e.g., the stem cell research statement). This suggests that subjects in Goodwin and Darley's study may have actually favored what Wright, Grandjean, and McWhite (2013) called “metaethical pluralism,” i.e., they sometimes sided with objectivism and other times with nonobjectivism. More recent studies have by and large confirmed this hypothesis of folk metaethical pluralism. Wright et al. (2013) and Wright, McWhite, and Grandjean (2014), for example, replicated Goodwin and Darley's results, using the exact same measures, but letting subjects classify the presented statements as moral and nonmoral themselves. Objectivity ratings for statements that were dominantly self‐classified as moral varied between as little as 5% and as much as 85%. Research based on different measures yielded high proportions of intrapersonal variation as well (e.g., Beebe, 2014; Beebe, Qiaoan, Wysocki, & Endara, 2015; Beebe & Sackris, 2016; Fisher, Knobe, Strickland, & Keil, 2017; Goodwin & Darley, 2012; Heiphetz & Young, 2017; Wright, 2018; Zijlstra, forthcoming‐a).2

#### 3] Liberation- Only a radical democracy that constantly questions its own foundations can ever be open to radical revision – other systems insist on their own foundation even when that’s exclusionary or illegitimate. The aff is a better model for constructing a political institution that must secure its own legitimacy over time and to changing groups of citizens.

#### 4] Root Cause- Ethical problems arise due to conflicts between antagonistic positions. This is due to multiple scenarios and analyses of situations leading to differing ethical conclusions. Conflicting ethical viewpoints does not require the inevitable exclusion of one over another but rather the acceptance that both could be relevant and valuable ethical tool.

#### 5] Performativity- when you enter debate, you presume that you can discuss the topic because of deliberation. This means denial of my framework is impossible and all objections should be ignored on face because responding to my framework requires my framework to do so.

#### 6] **Rule Following Paradox-** There is nothing inherent to a rule that tells us how we ought to follow it, which proves no internal motivation or direction to follow a particular rule, regardless of how correct the rule is. Since only our interpretation can tell us how to follow the rule, there can be no incorrect application. Only deliberation accounts for the diversity of interpretations of our norms.

#### 7] TJFS- Frameworks should be fair/educational like any other argument. A] Inclusion – Prag definitionally is a procedural for allowing almost any argumentation in the debate space which controls the internal link to inclusion which is an impact multiplier B] Resource Disparities- Discursive frameworks ensure big squads don’t have a comparative advantage since debates become about quality of arguments rather than quantity and require a higher level of analytic thinking that small schools have.

### Affirm

#### IP laws prioritize uniformity and predictability as a method of homogenizing knowledge and refusing experimentation.

Wu 14 [Tim Wu (Julius Silver Professor of Law, Science and Technology at Columbia University). “Intellectual Property Experimentalism By Way of Competition Law”. Columbia Law School. 2014. Accessed 8/16/21. <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2843&context=faculty_scholarship> //Xu]

The goals of uniformity and predictability has had its clearest implications at the international level. Unlike competition law, which varies significantly between OECD nations, over the last several decades all of the IP laws have become subject to a much stronger and geographically broader web of harmonizing international agreements, on multinational, regional and bilateral levels. The general aim of these treaties is to homogenize the world’s IP regimes, reducing or eliminating geographical variation. All of the major laws are the subject of longstanding global treaties specifying minimum protections (The Berne and Paris conventions), which were fortified in 1994 by the addition of an intellectual property agreement to the World Trade Organization, and further strengthened by numerous bilateral treaties since then. And of course the World Trade Organization, unlike the informal organizations common to competition law, has the power to punish deviations from the intellectual property treaties with serious trade sanctions. The pattern can also be observed at the national level. Both in Europe and the United States the last few decades have witnessed many important measures taken to create uniformity. In the United States, a single appeals court, the Federal Circuit, has heard the nation’s appeals in patent cases since 1982 in an effort to bring greater uniformity to the patent law. Though proposals for constructing a uniform patent court akin to the Federal Circuit in the European Union have been unsuccessful so far,26 the European Patent Convention, founded in 1973, provides a common application for the prosecution of patents in each of the member states.27 In short, stronger protection of uniform rights has been the clear trajectory of the intellectual property laws over the last few decades. That tendency is sharply at odds with the predispositions of the competition laws. The dichotomy I am suggesting here is, of course, not absolute. In certain areas of the competition law, one can sense the influence of a vested rights theory, in, for example, the resistance to breakups of dominant terms, even if the economic case for doing so might be quite strong. And there are areas in IP law, like the American fair use doctrine (a judicial and scholarly favorite), which have, in fact, served as important outlets for judicial tinkering in the face of changing conditions. For example the famous Sony decision, blessing the VCR, broke with prevalent copyright doctrine, arguably as a reaction to perceived technological necessity.28 Similarly, following a decade of bad press, Congress, the courts, and the American Patent Office have begun to make adjustments with American patent law. An example is the new post-grant review process, which includes a particular provision targeted at business method patents. Nonetheless it would be hard to describe the intellectual culture of either the intellectual property laws as truly committed to experimental improvement of the law. It would be even harder to describe competition law as devoted to the protection of fundamental rights. We are left with a divergence in intellectual cultures with broad implications for just about every advanced economy in the world. IV. USING ANTITRUST FOR PATENT EXPERIMENTALISM AT THE UNITED STATES SUPREME COURT I believe there is a need for a more experimentalist approach to the intellectual property laws, and particularly to the patent laws. The law, I believe, needs better mechanisms not simply to celebrate its successes, but to correct its errors, both specific and general. One way this might be achieved is to act within the structure and institutions of the laws themselves; as just discussed, this is a project underway in certain respects. But the other path is to rely on the competition laws as a kind of oversight and adjustment mechanism for the intellectual property laws.

#### The law is necessarily fallible and constrained by imperfection which requires constant experimentation to reconstruct “foundational” truths.

Wu 2 [Tim Wu (Julius Silver Professor of Law, Science and Technology at Columbia University). “Intellectual Property Experimentalism By Way of Competition Law”. Columbia Law School. 2014. Accessed 8/16/21. <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2843&context=faculty_scholarship> //Xu]

Experimentalism is not a word that attorneys use very often. At its most general, the idea of legal experimentalism is to apply the scientific method of hypothesis, experiment, and observation of consequence to challenging legal and policy problems. It is, as such, closely related to a “pragmatist” legal philosophy.5 John Dewey is usually credited with laying a philosophical foundation for policy experimentalism in his writings in the 1910s and 1920s. Dewey, whose background was in education, believed that a successful democracy needed the capacity to learn and improve itself. The key to learning, he believed, was the processing of experiences, or in his words the “reconstruction or reorganization of experience which adds to the meaning of experience and which increases ability to direct the course of subsequent experience.”6 As relevant to the legal system, Dewey thought policy and “proposals for social action” should be subject to the experimental method. Policy-making, he said, should be a constant process of learning from experience, rather than relying on rigid or foundational truths. “Policies,” Dewey argued, should be “experimental in the sense that they will be entertained subject to constant and well-equipped observation of the consequences they entail when acted upon, and subject to ready and flexible revision in the light of observed consequences.”7 As understood here we can describe legal experimentalism as comprising three main principles. First, for the experimentalist, laws are simply instruments meant to achieve some end and useful only to the extent they do so. A law has no intrinsic value, and its existence should not necessarily count in favor of its retention. Second, every law should be thought of as an ongoing experiment. That is to say, every enactment, regu- lation or judicial opinion must be seen as that moment’s best guess as to what a rule should be, in light of imperfect information and human fallibility. Borrowing Dewey’s language, policies should be thought of as a “working hypothesis, not as programs to be rigidly adhered to and executed.”8 Given the imperfect nature of law-making, policy should be subject to revision when faced with new information or changed conditions. The law must also be able to learn and improve itself based on observation of consequences, intended or otherwise.

### Method

#### 1] 1AR theory is legit – anything else means infinite abuse

#### – drop the debater – 1AR is too short to make up for the time trade-off

#### – no RVIs – 6 min 2NR means they can brute force me every time

#### – competing interps – reasonability narrows the theory debate to one issue of brightline, making it easy for the Neg to collapse to the issue in the long 2NR

#### – 1AR theory is the highest layer – the NC has 7 minutes to be abusive and 6 minutes to leverage the abuse against 1A theory in the 2N, making checking abuse lexically impossible

#### 2] Give me new weighing in the 2AR for 1AR shells – I don’t know what arguments will be read in the 2NR so 1AR weighing is impossible as I don’t know what to weigh against.

#### 3] Affirm if I win offense to a counterinterp

#### A] Timeskew – 6 Minute 2NR with collapse to whatever I undercover means that you can win theory and substance, but I need to go for both in half the time and split it between the 2 layers.

#### B] Reciprocity – you get T and theory so I should get theory and an RVI to make the burden reciprocal.

#### 4] No 2n theory arguments and paradigm issues- a) overloads the 2AR with a massive clarification burden b) it becomes impossible to check NC abuse if you can dump on reasons the shell doesn't matter in the 2n

#### 5] Procedural fairness is a voter and outweighs a] it’s an intrinsic good – debate is fundamentally a game and some level of competitive equity is necessary to sustain the activity, b] probability – debate can’t alter subjectivity, but it can rectify skews which means the only impact to a ballot is fairness and deciding who wins, c] it internal link turns every impact – a limited debate promotes in-depth research and engagement which is necessary to access all of their education.

### Advantage

#### Plan – The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines by implementing a one-and-done approach for patent protection.

#### Evergreening keeps Drug Prices high.

Amin 18 Tahir Amin 6-27-2018 "The problem with high drug prices isn't 'foreign freeloading,' it's the patent system" [High drug prices caused by US patent system, not 'foreign freeloaders' (cnbc.com)](https://www.cnbc.com/2018/06/25/high-drug-prices-caused-by-us-patent-system.html) <https://www.cnbc.com/2018/06/25/high-drug-prices-caused-by-us-patent-system.html> (co-founder of nonprofit I-MAK.org)//Elmer

**'Evergreening'** Instead of going to new medicines, the study finds that 74 percent of new patents during the decade went to drugs that already existed. It found that 80 percent of the nearly 100 best-selling drugs extended their exclusivity protections at least once, and 50 percent extended their patents more than once—with the effect of **prolonging** the **time before generics** could reach the market **as drug prices continued to rise**. The strategy is called “evergreening”: drug makers add on new patents to prolong a drug’s exclusivity, even when the additions aren’t fundamentally new, non-obvious, and useful as the law requires. One of the most expensive cancer drugs on the market, **Revlimid**®, is a case in point: **priced at** over $**125,000** per year of treatment, Celgene has sought **105 patents** on Revlimid®, many of which have been granted, extending its monopoly until the end of 2036. That gives the Revlimid® patent portfolio a lifespan of 40 years, which is being used to block or deter generic competitors from entering the market. But a recent I-MAK analysis finds that several of Celgene’s patents are mere add-ons—not fundamentally new to deserve a patent. And because of the thicket of patents around Revlimid®, **payers** are **projected to spend $45 billion** **in excess costs** on that drug alone as compared to what they could be paying if generic competitors were to enter when the first patent expires in 2019. Meanwhile, Celgene is also among the pharmaceuticals that have been recently scolded by the FDA for refusing to share samples with generic makers so they can test their own products against the brands in order to attain FDA approval. **In the absence of** genuine **competition** in the U.S. prescription drug market, **monopolies are yielding reckless pricing schemes and prohibitively expensive drugs** for Americans (and people around the world) who need them. In 2015, for example, U.S. Senators Wyden and Grassley found after an 18-month bipartisan investigation that the notorious $84,000 price tag for the hepatitis C drug made by Gilead was based on “a pricing and marketing strategy designed to maximize revenue with little concern for access or affordability.” Gilead’s subsequent hepatitis C drug Harvoni® was introduced to the market at a still higher cost of $94,500. Who benefits when drugs are priced so high? Not the 85 percent of Americans with hepatitis C who are still not able to afford treatment.

#### That pushes people into poverty – our internal is causal.

Hoban 10 Rose Hoban 9-13-2010 "High Cost of Medicine Pushes More People into Poverty" <https://www.voanews.com/science-health/high-cost-medicine-pushes-more-people-poverty> (spent more than six years as the health reporter for North Carolina Public Radio – WUNC, where she covered health care, state health policy, science and research with a focus on public health issues. She left to start North Carolina Health News after watching many of her professional peers leave or be laid off of their jobs, leaving NC with few people to cover this complicated and important topic. ALSO cites Laurens Niens who is a Health Researcher at Erasmus University Rotterdam)//Elmer

Health economist Laurens Niëns found that drugs needed to treat chronic diseases could be considered unaffordable **for many people in poor countries**. Medicines can be expensive and often make up a large portion of any family's health care budget. And the burden can be even greater for people in poor countries, where the **cost of vital medicines can push them into poverty**. The problem is growing as more people around the world are diagnosed with chronic diseases such as high blood pressure and diabetes. Being diagnosed with a chronic disease usually compells patients to seek treatment for a prolonged period of time. That increases the eventual price tag for health, says health economist Laurens Niëns at Erasmus University in the Netherlands. Niëns examined medication pricing data from the World Health Organization and also looked at data from the World Bank on household income in many countries. Using the data, he calculated how much people need to spend on necessities such as food, housing, education and medicines. "The medicines we looked at are medicines for patients who suffer from asthma, diabetes, hypertension and we looked at an adult respiratory infection," Niëns says. "Three conditions are for chronic diseases, which basically means that people need to procure those medicines each and every day." Niëns focused on the cost of medicine for those conditions. He found the essential drugs could be considered unaffordable for many people in poor countries - so much so that their cost often pushes people into abject poverty. "The proportion of the population that is living below the poverty line, plus the people that are being pushed below the poverty line, can **reach up to 80 percent** in some countries for some medicines," Niëns says. He points out that generic medicines - which are more affordable than brand-name medications - are often **not available in the marketplace**. And, according to Niëns, poor government policies can drive up the cost of medications. "For instance, a lot of governments actually tax medicines when they come into the country," he says. "[They] have no standard for the markups on medicines through the distribution chain. So often, governments think they pay a good price for the medicines when they procure them from the producer. However, before such a medicine reaches a patient, markups are sometimes up to 1,000 percent."

#### Inequality drives diversionary nationalism which sparks international conflict.

Solt 11, Frederick. "Diversionary nationalism: Economic inequality and the formation of national pride." The Journal of Politics 73.3 (2011): 821-830. (Ph.D. in Political Science from University of North Carolina at Chapel Hill, currently Associate Professor of Political Science at the University of Iowa, Assistant Professor, Departments of Political Science and Sociology, Southern Illinois at the time of publication)//Elmer

One of the oldest theories of nationalism is that states instill the nationalist myth in their citizens to divert their attention from great economic inequality and so forestall pervasive unrest. Because the very concept of nationalism obscures the extent of inequality and is a potent tool for delegitimizing calls for redistribution, it is a perfect diversion, and states should be expected to engage in more nationalist mythmaking when inequality increases. The evidence presented by this study supports this theory: across the countries and over time, where economic inequality is greater, nationalist sentiments are substantially more widespread. This result adds considerably to our understanding of nationalism. To date, many scholars have focused on the international environment as the principal source of threats that prompt states to generate nationalism; the importance of the domestic threat posed by economic inequality has been largely overlooked. However, at least in recent years, domestic inequality is a far more important stimulus for the generation of nationalist sentiments than the international context. Given that nuclear weapons—either their own or their allies’—rather than the mass army now serve as the primary defense of many countries against being overrun by their enemies, perhaps this is not surprising: nationalism-inspired mass mobilization is simply no longer as necessary for protection as it once was (see Mearsheimer 1990, 21; Posen 1993, 122–24). Another important implication of the analyses presented above is that growing economic inequality may increase ethnic conflict. States may foment national pride to stem discontent with increasing inequality, but this pride can also lead to more hostility towards immigrants and minorities. Though pride in the nation is distinct from chauvinism and outgroup hostility, it is nevertheless closely related to these phenomena, and recent experimental research has shown that members of majority groups who express high levels of national pride can be nudged into intolerant and xenophobic responses quite easily (Li and Brewer 2004). This finding suggests that, by leading to the creation of more national pride, higher levels of inequality produce environments favorable to those who would inflame ethnic animosities. Another and perhaps even more worrisome implication regards the likelihood of war. Nationalism is frequently suggested as a cause of war, and more national pride has been found to result in a much greater demand for national security even at the expense of civil liberties (Davis and Silver 2004, 36–37) as well as preferences for “a more militaristic foreign affairs posture and a more interventionist role in world politics” (Conover and Feldman 1987, 3). To the extent that these preferences influence policymaking, the growth in economic inequality over the last quarter century should be expected to lead to more aggressive foreign policies and more international conflict. If economic inequality prompts states to generate diversionary nationalism as the results presented above suggest, then rising inequality could make for a more dangerous world. The results of this work also contribute to our still limited knowledge of the relationship between economic inequality and democratic politics. In particular, it helps explain the fact that, contrary to median-voter models of redistribution (e.g., Meltzer and Richard 1981), democracies with higher levels of inequality do not consistently respond with more redistribution (e.g., Bénabou 1996). Rather than allowing redistribution to be decided through the democratic process suggested by such models, this work suggests that states often respond to higher levels of inequality with more nationalism. Nationalism then works to divert attention from inequality, so many citizens neither realize the extent of inequality nor demand redistributive policies. By prompting states to promote nationalism, greater economic inequality removes the issue of redistribution from debate and therefore narrows the scope of democratic politics.

#### The Plan solves Evergreening.

Feldman 3 Robin Feldman 2-11-2019 "‘One-and-done’ for new drugs could cut patent thickets and boost generic competition" <https://www.statnews.com/2019/02/11/drug-patent-protection-one-done/> (Arthur J. Goldberg Distinguished Professor of Law, Albert Abramson ’54 Distinguished Professor of Law Chair, and Director of the Center for Innovation)//SidK + Elmer

I believe that one period of protection **should be enough**. We should make the legal changes necessary to prevent companies **from building patent walls** and piling up mountains of rights. This could be accomplished **by a “one-and-done” approach** for patent protection. Under it, a drug would receive just one period of exclusivity, and no more. The choice of which “one” could be left entirely in the hands of the pharmaceutical company, with the election made when the FDA approves the drug. Perhaps development of the drug went swiftly and smoothly, so the remaining life of one of the drug’s patents is of greatest value. Perhaps development languished, so designation as an orphan drug or some other benefit would bring greater reward. The choice would be up to the company itself, based on its own calculation of the maximum benefit. The result, however, is that a pharmaceutical company chooses whether its period of exclusivity would be a patent, an orphan drug designation, a period of data exclusivity (in which no generic is allowed to use the original drug’s safety and effectiveness data), or something else — but **not all of the above** and more. Consider Suboxone, a combination of buprenorphine and naloxone for treating opioid addiction. The drug’s maker has extended its protection cliff eight times, including obtaining an orphan drug designation, which is intended for drugs that serve only a small number of patients. The drug’s first period of exclusivity ended in 2005, but with the additions its protection now lasts until 2024. That makes almost two additional decades in which the public has borne the burden of monopoly pricing, and access to the medicine may have been constrained. Implementing a one-and-done approach in conjunction with FDA approval underscores the fact that these problems and solutions are designed for pharmaceuticals, not for all types of technologies. That way, one-and-done could be implemented through **legislative changes to the FDA’s drug approval system**, and would apply to patents granted going forward. One-and-done would apply to both patents and exclusivities. A more limited approach, a baby step if you will, would be to invigorate the existing patent obviousness doctrine as a way to cut back on patent tinkering. Obviousness, one of the five standards for patent eligibility, says that inventions that are obvious to an expert or the general public can’t be patented. Either by congressional clarification or judicial interpretation, many pile-on patents could be eliminated with a ruling that the core concept of the additional patent is nothing more than the original formulation. Anything else is merely an obvious adaptation of the core invention, modified with existing technology. As such, the patent would fail for being perfectly obvious. Even without congressional action, a more vigorous and robust application of the existing obviousness doctrine could significantly improve the problem of piled-up patents and patent walls. Pharmaceutical companies have become adept at maneuvering through the system of patent and non-patent rights to create mountains of rights that can be applied, one after another. This behavior lets drug companies keep competitors out of the market and beat them back when they get there. We shouldn’t be surprised at this. Pharmaceutical companies are profit-making entities, after all, that face pressure from their shareholders to produce ever-better results. If we want to change the system, we must change the incentives driving the system. And right now, the incentives for creating patent walls are just too great.

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#### ] impacts cannot be isolated from their history and the only way to test the validity of truth is through application.

**Dewey 02** [John Dewey (head of the Philosophy Department at the University of Chicago). “The Evolutionary Method as Applied to Morality: II. Its Significance for Conduct.” The Philosophical Review, Vol. 11, No. 4 (Jul., 1902), pp. 353-371. Accessed 12/31/20. <https://www.jstor.org/stable/pdf/2176470.pdf> //Recut Xu]

The problem of the best method of arriving at correct judg- ments on points of moral worth, necessarily traverses ground covered by the time-honored and time-worn theories of intuition- alism and empiricism. Even at the risk of threshing old straw, it will be advisable to compare the evolutionary method with these other points of view. In such a comparison, however, it is to be borne in mind that the sole point under review is that of the log- ical relationship of the theory examined to the meaning and sanc- tion of our moral judgments. The question is not whether or no there are intuitions; whether or no they can be utilized in special cases, or whether or no all supposed intuitions can be accounted for as products of associative memory. The problem is not one of fact but of value. It is a logical problem. If we suppose such necessary and universal beliefs as go by the name of ' intuition' to exist, does such existence settle anything regarding the valid- ity of what is believed, either in general or in part? It is a question of the relation of the intuition to fact -to the moral order in reality. Under what conditions alone, and in what measure or degree, are we justified in arguing from the existence of moral intuitions as mental states and acts to facts taken to correspond to them ? The reply already hinted at is that the mere existence of a belief, even admitting that as a belief it cannot in any way be got rid of, determines absolutely nothing regarding the objectivity of its own content. The worth of the intuition depends upon genetic considerations. In so far as we can state the intuition in terms of the conditions of its origin, development, and later career, in so far we have some criterion for passing judgment upon its pretentions to validity. If we can find that the intuition is a legitimate response to enduring and deep-seated conditions, we have some reason to attribute worth to it. If we find that historically the belief has played a part in maintaining the integrity of social life, and in bringing new values into it, our belief in its worth is additionally guaranteed. But if we cannot find such historic origin and functioning, the intuition remains a mere state of consciousness, a hallucination, an illusion, which is not made more worthy by simply multiplying the number of people who have participated in it. Put roughly we may say that intuitionalism, asordinarily conceived, makes the ethical belief a brute fact, because unrelated. Its very lack of genetic relationship to the situation in which it appears condemns it to isolation. This isolation logically makes it impossible to credit it with objective validity. The intuitionalist, in proclaiming the necessity of his content, proclaims thereby its objective reference; but in asserting its non-genetic character he denies any reference whatsoever. The genetic theory holds that the content embodied in any so-called intuition is a response to a given active situation: that it arises, develops, and operates somehow in reference to this situation. This functional reference establishes in advance some kind of relationship to objective conditions, and hence some presumption of validity. If the ' intuition' persists, it is within certain limits because the situation persists. If the particular moral belief is really inexpugnable, it is just because the conditions which require it are so enduring as to persistently call out an attitude which is relevant to them. The probability is that it continues in existence simply because it continues to be necessary in function.

#### ] Value Pluralism – other ethical theories rely on minimalistic criteria as their foundation, our framework resolves this by using these criteria to better inform our judgments LaFollete 2K "Pragmatic Ethics" [Hugh LaFollette](http://www.hughlafollette.com/index.htm) In [Blackwell Guide to Ethical Theory](http://www.hughlafollette.com/papers/b-guide.htm) 2000. Hugh LaFollette is Marie E. and Leslie Cole Professor in Ethics at the University of South Florida St. Petersburg. He is editor-in-chief of The International Encyclopedia of Ethics. <https://www.hughlafollette.com/papers/pragmatic_ethics.pdf> Bracketed for G Lang

The previous discussions enable us to say more precisely why pragmatists reject a criterial view of morality. Pragmatism's core contention that practice is primary in philosophy rules out the hope of logically prior criteria. Any meaningful criteria evolve from our attempt to live morally – in deciding what is the best action in the circumstances. Criteria are not discovered by pure reason, and they are not fixed. As ends of action, they are always revisable. As we obtain new evidence about ourselves and our world, and as our worlds changes, we find that what was appropriate for the old environment may not be conducive to survival in the new [world] one. A style of teaching that might have been ideal for one kind institution (a progressive liberal arts college) at one time (the 60s) may be wholly ineffective in another institution (a regional state university) at another time (the 80s). But that is exactly what we would expect of an evolutionary ethic. Neither could criteria be complete. The moral world is complex and changeable. No set of criteria could give us univocal answers about how we should behave in all circumstances. If we cannot develop an algorithm for winning at chess, where there are only eighteen first moves, there is no way to develop an algorithm for living, which has a finitely large number of "first moves." Moreover, while the chess environment (the rules) stays constant, our natural and moral environments do not. We must adapt or fail. While there is always one end of chess -- the game ends when one player wins – the ends of life change as we grow, and as our environments change. Finally, we cannot resolve practical moral questions simply by applying criteria. We do not make personal or profession decisions by applying fixed, complete criteria. Why should we assume we should make moral decisions that way? Appropriates insights from other ethical theories Nonetheless, there is a perfectly good sense in which a pragmatic ethic employs what we might call criteria, but their nature and role dramatically differ from that in a criterial morality (Dewey 1985/1932) . Pragmatic criteria are not external rules we apply, but are tools we use in making informed judgements. They embody learning from previous action, they express our tentative efforts to isolate morally relevant features of those actions. These emergent criteria can become integrated into our habits, thereby informing the ways that we react to, think about, and imagine our worlds and our relations to others. This explains why pragmatists think other theories can provide guidance on how to live morally. Standard moral theories err not because they offer silly moral advice, but because they misunderstand that advice. Other moral theories can help us isolate (and habitually focus on) morally relevant features of action. And pragmatists take help wherever they can get it. Utilitarianism does not provide an algorithm for deciding how to act, but it shapes habits to help us "naturally" attend to the ways that our actions impact others. Deontology does not provide a list of general rules to follow, but it sensitizes us to ways our actions might promote or undermine respect for others. Contractarianism does not resolve all moral issues, but it sensitizes us to the need for broad consensus. That is why it is mistaken to suppose that the pragmatist makes specific moral judgements oblivious to rules, principles, virtues, and the collective wisdom of human experience. The pragmatist absorbs these insights into her habits, and thereby shapes how [they] she habitually responds, and how she habitually deliberates when deliberation is required. This also explains why criterial moralities tend to be minimalistic. They specify minimal sets of rules to follow in order to be moral. Pragmatism, on the other hand, like virtue theories, is more concerned to emphasize exemplary behavior – to use morally relevant features of action to determine the best way to behave, not the minimally tolerable way.