### 1NC – Long – Clash

#### Our interpretation is that the resolution should define the division of affirmative and negative ground and offense. It was *negotiated* and *announced in advance*, providing both sides with a reasonable opportunity to prepare to engage one another’s arguments.

#### ‘Resolved’ preceding a colon indicates a legislative forum.

Blanche Ellsworth 81, English professor at SFSU and M.A. in English from UC Berkeley, 1/1/1981, *English Simplified*, 4th Edition, cc

A colon is also used to separate 3. THE SALUTATION OF A BUSINESS LETTER FROM THE BODY, Dear Sir Dear Ms. Weiner NOTE: In an informal letter, a comma follows the salutation: Dear Mary, Dear Uncle Jack 4. PARTS OF TITLES, REFERENCES, AND NUMERALS. TITLE: Principles of Mathematics: An Introduction REFERENCE: Luke 3:4—13 NUMERALS: 8:15 PM 5. PLACE OF PUBLICATION FROM PUBLISHER Indianapolis: Bobbs-Merrill 6. THE WORD RESOLVED FROM THE STATEMENT OF THE RESOLUTION. Resolved: That this committee go on record as favoring new legislation.

#### Ought means should

Merriam Webster, No Date – Merriam Webster’s Learner’s Dictionary, “ought”, <http://www.learnersdictionary.com/definition/ought>  
ought /ˈɑːt/ verb  
Learner's definition of OUGHT [modal verb] 1 ◊ Ought is almost always followed by to and the infinitive form of a verb. The phrase ought to has the same meaning as should and is used in the same ways, but it is less common and somewhat more formal. The negative forms ought not and oughtn't are often used without a following to. — used to indicate what is expected They ought to be here by now. You ought to be able to read this book. There ought to be a gas station on the way. 2 — used to say or suggest what should be done You ought to get some rest. That leak ought to be fixed. You ought to do your homework.

#### Should requires legal effect

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record. [CONTINUES – TO FOOTNOTE] [13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### “Appropriation of outer space” by private entities refers to the exercise of exclusive control of space.

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“Appropriation of outer space, therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence, which limits other nations’ access to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

#### Outer Space is considered anything that sits above the Earth’s atmosphere

Betz 21 [(Eric Betz, Science & tech writer for @Discovermag, @Astronomymag and others), “The Kármán Line: Where does space begin?”, Astronomy, https://astronomy.com/news/2021/03/the-krmn-line-where-does-space-begin, March 5, 2021] SS

These days, spacecraft are venturing into the final frontier at a record pace. And a deluge of paying space tourists should soon follow. But to earn their astronaut wings, high-flying civilians will have to make it past the so-called Kármán line. This boundary sits some 62 miles (100 kilometers) above Earth's surface, and it's generally accepted as the place where Earth ends and outer space begins.

#### Private entities are non-governmental corporations

UpCounsel ND [(UpCounsel is an interactive online service that makes it faster and easier for businesses to find and hire legal help solely based on their preferences. “Private Entity: Everything You Need to Know”, UpCounsel, https://www.upcounsel.com/private-entity#importance-of-private-entities, No Date] SS

A private entity can be a partnership, corporation, individual, nonprofit organization, company, or any other organized group that is not government-affiliated. Indian tribes and foreign public entities are not considered private entities.

Unlike publicly traded companies, private companies do not have public stock offerings on Nasdaq, American Stock Exchange, or the New York Stock Exchange. Instead, they offer shares privately to interested investors, who may trade among themselves.

#### Unjust means unfair or characterized by injustice

Merriam Webster ND [(Merriam-Webster, Merriam-Webster, Inc. is an American company that publishes reference books and is especially known for its dictionaries.),“unjust”, https://www.merriam-webster.com/dictionary/unjust, No Date] SS

Definition of unjust

1: characterized by injustice : UNFAIR

#### It is irrelevant if they are correct about everything that they said – allowing the aff to deviate from the resolution is a moral hazard, it justifies an infinite number of unpredictable arguments with thin ties to the resolution

#### This undermines deliberation – turns the aff because they will never be competent advocates for their position unless they have experience against a well-prepared opponent

#### A clear, well-defined resolution is critical to allow the neg to refute the aff in an in-depth fashion – this process of negation produces iterative testing and improvement, where we learn to improve our arguments based on our opponents’ arguments. This process does not proscribe particular styles or forms of argument but does require a common point of disagreement around which arguments can be organized

Ralf Poscher 16, director of the Institute for Staatswissenschaft & Philosophy of Law, Professor of Public Law and Legal Philosophy, “Why We Argue About the Law: An Agonistic Account of Legal Disagreement,” in *Metaphilosophy of Law*, ed. Gizbert-Studnicki, Dyrda, Banas, 2/19/16, SSRN

Hegel’s dialectical thinking powerfully exploits the idea of negation. It is a central feature of spirit and consciousness that they have the power to negate. The spirit “is this power only by looking the negative in the face and tarrying with it. This […] is the magical power that converts it into being.”102 The tarrying with the negative is part of what Hegel calls the “labour of the negative”103. In a loose reference to this Hegelian notion Gerald Postema points to yet another feature of disagreements as a necessary ingredient of the process of practical reasoning. Only if our reasoning is exposed to contrary arguments can we test its merits. We must go through the “labor of the negative” to have trust in our deliberative processes.104

This also holds where we seem to be in agreement. Agreement without exposure to disagreement can be deceptive in various ways. The first phenomenon Postema draws attention to is the group polarization effect. When a group of like‐minded people deliberates an issue, informational and reputational cascades produce more extreme views in the process of their deliberations.105 The polarization and biases that are well documented for such groups 106 can be countered at least in some settings by the inclusion of dissenting voices. In these scenarios, disagreement can be a cure for dysfunctional deliberative polarization and biases.107 A second deliberative dysfunction mitigated by disagreement is superficial agreement, which can even be manipulatively used in the sense of a “presumptuous ‘We’”108. Disagreement can help to police such distortions of deliberative processes by challenging superficial agreements. Disagreements may thus signal that a deliberative process is not contaminated with dysfunctional agreements stemming from polarization or superficiality. Protecting our discourse against such contaminations is valuable even if we do not come to terms. Each of the opposing positions will profit from the catharsis it received “by looking the negative in the face and tarrying with it”.

These advantages of disagreement in collective deliberations are mirrored on the individual level. Even if the probability of reaching a consensus with our opponents is very low from the beginning, as might be the case in deeply entrenched conflicts, entering into an exchange of arguments can still serve to test and improve our position. We have to do the “labor of the negative” for ourselves. Even if we cannot come up with a line of argument that coheres well with everybody else’s beliefs, attitudes and dispositions, we can still come up with a line of argument that achieves this goal for our own personal beliefs, attitudes and dispositions. To provide ourselves with the most coherent system of our own beliefs, attitudes and dispositions is – at least in important issues – an aspect of personal integrity – to borrow one of Dworkin’s favorite expressions for a less aspirational idea.

In hard cases we must – in some way – lay out the argument for ourselves to figure out what we believe to be the right answer. We might not know what we believe ourselves in questions of abortion, the death penalty, torture, and stem cell research, until we have developed a line of argument against the background of our subjective beliefs, attitudes and dispositions. In these cases it might be rational to discuss the issue with someone unlikely to share some of our more fundamental convictions or who opposes the view towards which we lean. This might even be the most helpful way of corroborating a view, because we know that our adversary is much more motivated to find a potential flaw in our argument than someone with whom we know we are in agreement. It might be more helpful to discuss a liberal position with Scalia than with Breyer if we want to make sure that we have not overlooked some counter‐argument to our case.

It would be too narrow an understanding of our practice of legal disagreement and argumentation if we restricted its purpose to persuading an adversary in the case at hand and inferred from this narrow understanding the irrationality of argumentation in hard cases, in which we know beforehand that we will not be able to persuade. Rational argumentation is a much more complex practice in a more complex social framework. Argumentation with an adversary can have purposes beyond persuading him: to test one’s own convictions, to engage our opponent in inferential commitments and to persuade third parties are only some of these; to rally our troops or express our convictions might be others. To make our peace with Kant we could say that “there must be a hope of coming to terms” with someone though not necessarily with our opponent, but maybe only a third party or even just ourselves and not necessarily only on the issue at hand, but maybe through inferential commitments in a different arena.

f) The Advantage Over Non‐Argumentative Alternatives

It goes without saying that in real world legal disagreements, all of the reasons listed above usually play in concert and will typically hold true to different degrees relative to different participants in the debate: There will be some participants for whom our hope of coming to terms might still be justified and others for whom only some of the other reasons hold and some for whom it is a mixture of all of the reasons in shifting degrees as our disagreements evolve. It is also apparent that, with the exception of the first reason, the rationality of our disagreements is of a secondary nature. The rational does not lie in the discovery of a single right answer to the topic of debate, since in hard cases there are no single right answers. Instead, our disagreements are instrumental to rationales which lie beyond the topic at hand, like the exploration of our communalities or of our inferential commitments. Since these reasons are of this secondary nature, they must stand up to alternative ways of settling irreconcilable disagreements that have other secondary reasons in their favor – like swiftness of decision making or using fewer resources. Why does our legal practice require lengthy arguments and discursive efforts even in appellate or supreme court cases of irreconcilable legal disagreements? The closure has to come by some non‐argumentative mean and courts have always relied on them. For the medieval courts of the Germanic tradition it is bequeathed that judges had to fight it out literally if they disagreed on a question of law – though the king allowed them to pick surrogate fighters.109 It is understandable that the process of civilization has led us to non‐violent non‐ argumentative means to determine the law. But what was wrong with District Judge Currin of Umatilla County in Oregon, who – in his late days – decided inconclusive traffic violations by publicly flipping a coin?110 If we are counting heads at the end of our lengthy argumentative proceedings anyway, why not decide hard cases by gut voting at the outset and spare everybody the cost of developing elaborate arguments on questions, where there is not fact of the matter to be discovered?

One reason lies in the mixed nature of our reasons in actual legal disagreements. The different second order reasons can be held apart analytically, but not in real life cases. The hope of coming to terms will often play a role at least for some time relative to some participants in the debate. A second reason is that the objectives listed above could not be achieved by a non‐argumentative procedure. Flipping a coin, throwing dice or taking a gut vote would not help us to explore our communalities or our inferential commitments nor help to scrutinize the positions in play. A third reason is the overall rational aspiration of the law that Dworkin relates to in his integrity account111. In a justificatory sense112 the law aspires to give a coherent account of itself – even if it is not the only right one – required by equal respect under conditions of normative disagreement.113 Combining legal argumentation with the non‐argumentative decision‐ making procedure of counting reasoned opinions serves the coherence aspiration of the law in at least two ways: First, the labor of the negative reduces the chances that constructions of the law that have major flaws or inconsistencies built into the arguments supporting them will prevail. Second, since every position must be a reasoned one within the given framework of the law, it must be one that somehow fits into the overall structure of the law along coherent lines. It thus protects against incoherent “checkerboard” treatments114 of hard cases. It is the combination of reasoned disagreement and the non‐rational decision‐making mechanism of counting reasoned opinions that provides for both in hard cases: a decision and one – of multiple possible – coherent constructions of the law. Pure non‐rational procedures – like flipping a coin – would only provide for the decision part. Pure argumentative procedures – which are not geared towards a decision procedure – would undercut the incentive structure of our agonistic disagreements.115 In the face of unresolvable disagreements endless debates would seem an idle enterprise. That the debates are about winning or losing helps to keep the participants engaged. That the decision depends on counting reasoned opinions guarantees that the engagement focuses on rational argumentation. No plain non‐argumentative procedure would achieve this result. If the judges were to flip a coin at the end of the trial in hard cases, there would be little incentive to engage in an exchange of arguments. It is specifically the count of reasoned opinions which provides for rational scrutiny in our legal disagreements and thus contributes to the rationales discussed above.

2. The Semantics of Agonistic Disagreements

The agonistic account does not presuppose a fact of the matter, it is not accompanied by an ontological commitment, and the question of how the fact of the matter could be known to us is not even raised. Thus the agonistic account of legal disagreement is not confronted with the metaphysical or epistemological questions that plague one‐right‐answer theories in particular. However, it must still come up with a semantics that explains in what sense we disagree about the same issue and are not just talking at cross purposes.

In a series of articles David Plunkett and Tim Sundell have reconstructed legal disagreements in semantic terms as metalinguistic negotiations on the usage of a term that at the center of a hard case like “cruel and unusual punishment” in a death‐penalty case.116 Even though the different sides in the debate define the term differently, they are not talking past each other, since they are engaged in a metalinguistic negotiation on the use of the same term. The metalinguistic negotiation on the use of the term serves as a semantic anchor for a disagreement on the substantive issues connected with the term because of its functional role in the law. The “cruel and unusual punishment”‐clause thus serves to argue about the permissibility of the death penalty. This account, however only provides a very superficial semantic commonality. But the commonality between the participants of a legal disagreement go deeper than a discussion whether the term “bank” should in future only to be used for financial institutions, which fulfills every criteria for semantic negotiations that Plunkett and Sundell propose. Unlike in mere semantic negotiations, like the on the disambiguation of the term “bank”, there is also some kind of identity of the substantive issues at stake in legal disagreements.

A promising route to capture this aspect of legal disagreements might be offered by recent semantic approaches that try to accommodate the externalist challenges of realist semantics,117 which inspire one‐right‐answer theorists like Moore or David Brink. Neo‐ descriptivist and two‐valued semantics provide for the theoretical or interpretive element of realist semantics without having to commit to the ontological positions of traditional externalism. In a sense they offer externalist semantics with no ontological strings attached.

The less controversial aspect of the externalist picture of meaning developed in neo‐ descriptivist and two‐valued semantics can be found in the deferential structure that our meaning‐providing intentions often encompass.118 In the case of natural kinds, speakers defer to the expertise of chemists when they employ natural kind terms like gold or water. If a speaker orders someone to buy $ 10,000 worth of gold as a safe investment, he might not know the exact atomic structure of the chemical element 79. In cases of doubt, though, he would insist that he meant to buy only stuff that chemical experts – or the markets for that matter – qualify as gold. The deferential element in the speaker’s intentions provides for the specific externalist element of the semantics.

In the case of the law, the meaning‐providing intentions connected to the provisions of the law can be understood to defer in a similar manner to the best overall theory or interpretation of the legal materials. Against the background of such a semantic framework the conceptual unity of a linguistic practice is not ratified by the existence of a single best answer, but by the unity of the interpretive effort that extends to legal materials and legal practices that have sufficient overlap119 – be it only in a historical perspective120. The fulcrum of disagreement that Dworkin sees in the existence of a single right answer121 does not lie in its existence, but in the communality of the effort – if only on the basis of an overlapping common ground of legal materials, accepted practices, experiences and dispositions. As two athletes are engaged in the same contest when they follow the same rules, share the same concept of winning and losing and act in the same context, but follow very different styles of e.g. wrestling, boxing, swimming etc. They are in the same contest, even if there is no single best style in which to wrestle, box or swim. Each, however, is engaged in developing the best style to win against their opponent, just as two lawyers try to develop the best argument to convince a bench of judges.122 Within such a semantic framework even people with radically opposing views about the application of an expression can still share a concept, in that they are engaged in the same process of theorizing over roughly the same legal materials and practices. Semantic frameworks along these lines allow for adamant disagreements without abandoning the idea that people are talking about the same concept. An agonistic account of legal disagreement can build on such a semantic framework, which can explain in what sense lawyers, judges and scholars engaged in agonistic disagreements are not talking past each other. They are engaged in developing the best interpretation of roughly the same legal materials, albeit against the background of diverging beliefs, attitudes and dispositions that lead them to divergent conclusions in hard cases. Despite the divergent conclusions, semantic unity is provided by the largely overlapping legal materials that form the basis for their disagreement. Such a semantic collapses only when we lack a sufficient overlap in the materials. To use an example of Michael Moore’s: If we wanted to debate whether a certain work of art was “just”, we share neither paradigms nor a tradition of applying the concept of justice to art such as to engage in an intelligible controversy.

#### These skills are tremendously valuable for movement building and challenging injustice but require engagement with a well-prepared opponent

Talisse 5 – Professor of Philosophy @ Vandy (Robert, Philosophy & Social Criticism, “Deliberativist responses to activist challenges,” 31(4) p. 429-431)

The argument thus far might appear to turn exclusively upon different conceptions of what reasonableness entails. The deliberativist view I have sketched holds that reasonableness involves some degree of what we may call epistemic modesty. On this view, the reasonable citizen seeks to have her beliefs reﬂect the best available reasons, and so she enters into public discourse as a way of testing her views against the objections and questions of those who disagree; hence she implicitly holds that her present view is open to reasonable critique and that others who hold opposing views may be able to offer justiﬁcations for their views that are at least as strong as her reasons for her own. Thus any mode of politics that presumes that discourse is extraneous to questions of justice and justiﬁcation is unreasonable. The activist sees no reason to accept this. Reasonableness for the activist consists in the ability to act on reasons that upon due reﬂection seem adequate to underwrite action; discussion with those who disagree need not be involved. According to the activist, there are certain cases in which he does in fact know the truth about what justice requires and in which there is no room for reasoned objection. Under such conditions, the deliberativist’s demand for discussion can only obstruct justice; it is therefore irrational. It may seem that we have reached an impasse. However, there is a further line of criticism that the activist must face. To the activist’s view that at least in certain situations he may reasonably decline to engage with persons he disagrees with (107), the deliberative democrat can raise the phenomenon that Cass Sunstein has called ‘group polarization’ (Sunstein, 2003; 2001a: ch. 3; 2001b: ch. 1). To explain: consider that political activists cannot eschew deliberation altogether; they often engage in rallies, demonstrations, teach-ins, workshops, and other activities in which they are called to make public the case for their views. Activists also must engage in deliberation among themselves when deciding strategy. Political movements must be organized, hence those involved must decide upon targets, methods, and tactics; they must also decide upon the content of their pamphlets and the precise messages they most wish to convey to the press. Often the audience in both of these deliberative contexts will be a self-selected and sympathetic group of like-minded activists. Group polarization is a well-documented phenomenon that has ‘been found all over the world and in many diverse tasks’; it means that ‘members of a deliberating group predictably move towards a more extreme point in the direction indicated by the members’ predeliberation tendencies’ (Sunstein, 2003: 81–2). Importantly, in groups that ‘engage in repeated discussions’ over time, the polarization is even more pronounced (2003: 86 Hence discussion in a small but devoted activist enclave that meets regularly to strategize and protest ‘should produce a situation in which individuals hold positions more extreme than those of any individual member before the series of deliberations began’ (ibid.) 17 The fact of group polarization is relevant to our discussion because the activist has proposed that he may reasonably decline to engage in discussion with those with whom he disagrees in cases in which the requirements of justice are so clear that he can be conﬁdent that he has the truth. Group polarization suggests that deliberatively confronting those with whom we disagree is essential even when we have the truth. For even if we have the truth, if we do not engage opposing views, but instead deliberate only with those with whom we agree, our view will shift progressively to a more extreme point, and thus we lose the truth. In order to avoid polarization, deliberation must take place within heterogeneous ‘argument pools’ (Sunstein, 2003: 93). This of course does not mean that there should be no groups devoted to the achievement of some common political goal; it rather suggests that engagement with those with whom one disagrees is essential to the proper pursuit of justice. Insofar as the activist denies this, he is unreasonable.

#### Prefer our impact:

#### Skepticism – presume all their truth claims false because they have not been properly tested

#### Scope – the role of individual debate rounds on broader subject formation is white noise – *can you remember what happened round () of () your junior year?* – individual rounds don’t affect our subjectivity, but a model of debate that forefronts clash and rigorous negation can turn us into more competent advocates

#### Deliberative processes like debate rarely change latent preferences, but they can make us less vulnerable to political manipulation – that means our framework doesn’t create neocons but makes us better equipped to resist them

Simon Niemeyer - Centre for Deliberative Global Governance, The Australian National University - 2011,

The Emancipatory Effect of Deliberation: Empirical Lessons from Mini-Publics, Politics & Society, 39(1) 103–140, SAGE Publications

The results of the two case studies in this article suggest that deliberation does not fundamentally change individuals or inculcate a sense of moral duty. The particular values that prevailed in both issues were always present (and measurable), even if they were latent in expressed preferences. Before deliberation, most participants believed they were acting in the public interest,69 but good intentions alone are not sufficient to formulate civic-minded preferences. Predeliberative preferences were more strongly influenced by discourses associated with symbolic politics. Following deliberation, symbolic cues reduced the “cost” of arriving at a decision,70 but the cognitive shortcut resulted in positions that did not properly reflect participants’ overall subjectivity. Before deliberation, symbolic politics—or at least the mere presence of potent symbols—distorted participants’ preferences. This process may be manipulative and overt, as in the case of the Bloomfield Track, or incidental, as in the case of the Fremantle Bridge. Deliberation successfully corrected the influence of symbolic politics because it provided both the incentive and the means to develop positions on an intersubjective set of recognized issues that extended beyond the narrow set of unhelpful symbolic ones. The mechanism whereby this occurred did not so much involve changing incentive structures, as predicted by institutional rational choice.71 Rather, it changed the decision pathway from a casual understanding of emotionally appealing content to a deeper understanding that allowed participants to better express their own subjectivity. The change was as much a function of stripping away the impact of symbolic arguments as it was due to participants’ increased ability and willingness to deal with issue complexity. This suggests that the transformative effect might be more easily replicated in the wider public sphere than is ordinarily supposed. The Potential for Deliberative Democracy In a sense, there is nothing particularly surprising in the results discussed here. It has been repeatedly demonstrated that, in contrast to the persisting Schumpeterian assertion regarding “primitive citizens,” citizens do have the right stuff to make democracy work.72 However, Schumpeter is at least partly correct—citizens often do become primitive when they enter the political field. But this is largely due to the nature of politics that they encounter, characterized by a parade of emotive issues and symbolic cues propagated by both elites and mass media in the public sphere. The evidence presented in this article suggests that politics as usual is the illness, and deliberative democracy can provide a cure.

### 1NC – Case

**State influence is inevitable--- shifting focus to reforms is the only thing that can create a signficant change for women**

R. W. **Connell 90**, “The State, Gender, and Sexual Politics: Theory and Appraisal”, Theory and Society, Vol. 19, No. 5, (Oct., 1990), pp. 507-544, <http://www.jstor.org/stable/657562>, EHS MKS

Because of its power to regulate and its power to create, the state is a major stake in gender politics; and the exercise of that power is a con- stant incitement to **claim the stake**. Thus the state becomes the **focus** of interest-group formation and mobilization in sexual politics. It is worth recalling just how wide the liberal state's activity in relation to gender is. This activity includes family policy, population policy, labor force and labor market management, housing policy, regulation of sexual behavior and expression, provision of child care, mass educa- tion, taxation and income redistribution, the creation and use of mili- tary forces - and that is not the whole of it. This is not a sideline; it is a major realm of state policy. Control of the machinery that conducts these activities is a **massive asset in gender politics**. In **many situations** it will be **tactically decisive**. The state is therefore a focus for the mobilization of interests that is **central to gender politics on the large scale**. Feminism's historical con- cern with the state, and attempts to capture a share of state power, appear in this light as a **necessary response to a historical reality**. They are **not an error brought on by an overdose of liberalism or a capitula- tion to patriarchy**. As Franzway puts it, the state is **unavoidable** for feminism. The question is not whether feminism will deal with the state, but how: on what terms, with what tactics, toward what goals.5" The same is true of the politics of homosexuality among men. The ear- liest attempts to agitate for toleration produced a half-illegal, half-aca- demic mode of organizing that reached its peak in Weimar Germany, and was smashed by the Nazis. (The Institute of Sexual Science was vandalized and its library burnt in 1933; later, gay men were sent to concentration camps or shot.) A long period of lobbying for legal reform followed, punctuated by bouts of state repression. (Homosexual men were, for instance, targeted in the McCarthyite period in the United States.) The gay liberation movement changed the methods and expanded the goals to include social revolution, but still dealt with the state over policing, de-criminalization, and anti-discrimination. Since the early 1970s gay politics has evolved a complex mixture of confron- tation, cooperation, and representation. In some cities, including San Francisco and Sydney, gay men as such have successfully run for public office. Around the AIDS crisis of the 1980s, in countries such as the United States and Australia, gay community based organizations and state health services have entered a close - if often tense - long-term relationship.' In a longer historical perspective, all these forms of politics are fairly new. Fantasies like Aristophanes's Lysistrata aside, the open mobiliza- tion of groups around demands or programs in sexual politics dates only from the mid-nineteenth century. The politics that characterized other patriarchal gender orders in history were constructed along other lines, for instance as a politics of kinship, or faction formation in agri- cultural villages. It can plausibly be argued that modern patterns re- sulted from a reconfiguration of gender politics around the growth of the liberal state. In particular its structure of legitimation through plebiscite or electoral democracy **invited the response of popular mobilization**

**Title IX created substantial impacts on the education system for women**

EMMA **CHADBAND 12** (“Nine Ways Title IX Has Helped Girls and Women in Education, June 21, 2012, Chadband: Transport Workers Union of America International Union,, <http://neatoday.org/2012/06/21/nine-ways-title-ix-has-helped-girls-and-women-in-education-2/>, EHS MKS)

Forty years ago this week, Title IX, which bans sex discrimination in any federally funded education program, was signed into law. Many people think this groundbreaking law’s effects have been limited to equal access to athletics, but Title IX’s impact on the education system has been far and wide. 1.Equal access to higher education – Until the 1970s, some colleges and universities refused to admit women. Before Title IX, this was perfectly legal. Now, more women than men are enrolled in college, and more women are going into careers previously geared toward men in science and technology fields. 2. Career education – Were there boys in your high school home economics class? Girls in the shop class? That wouldn’t have been possible without Title IX. Before Title IX, many schools only allowed women to train for careers they found suitable for women – namely, housekeeping. Now, school administrators can’t legally dictate which students can take which classes based on gender. 3. Protection for pregnant and parenting students – Until Title IX, it was legal to expel pregnant students. Now, schools are allowed to create separate programs for student-parents, but the programs must be comparable to a normal school curriculum and enrollment must be voluntary. 4. Equal access to academia – Have you ever had a female professor? Before Title IX, she probably would’ve had to work at a women’s-only college, for less pay, and she might not have ever gotten tenure. 5. Changing gender stereotypes in the classroom – It was once widely accepted that boys were good at math and science, while girls were good at domestic activities. Textbooks showed girls as nurturing wives and mothers, while boys were shown as powerful and aggressive. Thanks in part to Title IX, gender stereotypes are now challenged in classrooms and in learning materials including textbooks. 6. Fighting sexual harassment – Under Title IX, schools have a legal obligation to prevent and address any reported sexual harassment. Administrators used to be able to dismiss claims of sexual harassment as trivial or simply as “boys being boys.” 7. Access to athletics – This is the most widely known impact of Title IX. According to the National Organization for Women (NOW), before Title IX, one in 27 girls played varsity high school sports. By 2001, one in every 2.5 girls played, meaning a total of 2.8 million girls played varsity sports. 8. Athletic scholarships for women – Before Title IX, athletic scholarships for women were virtually nonexistent because so few women were involved with sports. According to NOW, in 2003, there was more than $1 million in scholarships for women at Division I schools. 9. Increased self-confidence in girls – According to the Women’s Sports Foundation, women who are active in sports have more self confidence and are more outgoing than women who do not participate. These women would’ve never experienced these benefits if they weren’t allowed to participate in sports.

**As of 2016, women are allowed to serve in all combat roles—seen as a win**

**ALEXANDER AND STEWART 15** (“U.S. military opens all combat roles to women”, Alexander: Business Network International (BNI), Stewart: reporter for Reuters, Fri Dec 4, 2015, http://www.reuters.com/article/us-usa-military-women-combat-idUSKBN0TM28520151204, EHS MKS)

The U.S. military will let women serve in all combat roles, Defense Secretary Ash Carter said on Thursday in a historic move striking down gender barriers in the armed forces. "As long as they qualify and meet the standards, women will now be able to contribute to our mission in ways they could not before," Carter told a Pentagon news conference. "They'll be allowed to drive tanks, fire mortars, and lead infantry soldiers into combat. They'll be able to serve as Army Rangers and Green Berets, Navy SEALS, Marine Corps infantry, Air Force parajumpers and everything else that was previously open only to men," he said. President Barack Obama called the move a "historic step forward," saying it would "make our military even stronger." "Our armed forces will draw on an even wider pool of talent. Women who can meet the high standards required will have new opportunities to serve," Obama said in a statement Carter said the opening to women would take place following a 30-day review period, after which they would be integrated into the new roles in a "deliberate and methodical manner" as positions come open. The waiting period enables Congress to review the decision and raise any objections. He acknowledged the decision could lead to more debate over whether women would have to register for the draft, an issue he said was already under litigation. The U.S. military is currently an all-volunteer force, but young men are still required to register in case the draft is reactivated. Asked whether the decision opened the door to women being required to serve in front-line combat positions, Carter said members of the military had some choices but not "absolute choice."

**Sonia Sotomayor has consistently worked within the state to create major reform- proves its possible**

Daniel **Chavez 10** (“WOMAN HERO: SONIA SOTOMAYOR, (June 2010), http://myhero.com/hero.asp?hero=sonia\_sotomayor2010, EHS MKS)

Sotomayor has worked at almost every level in the judicial system over a span of three decades. In 1979, fresh out of Yale Law School, Sotomayor became an Assistant District Attorney in Manhattan in 1979 where she tried many criminal cases over a span of five years and spent almost every day in the courtroom. She entered private practice in 1984 and became a partner in 1988 at the firm Pavia and Harcourt. Her judicial service began in October 1992 when President George H.W. Bush appointed her to the United States District Court for the Southern District of New York. From 1992-1998 she presided around 450 cases in which she earned a reputation as a “sharp and fearless jurist who does not let powerful interests bully her into departing from the rule of law.” President William H. Clinton appointed Judge Sotomayor to the U.S. Court of Appeals for the Second Circuit in 1998. She also served as an adjunct professor at the NYU School of Law in 1998 and a lecturer at Columbia Law School in 1999. With all her achievements and recognitions, Sotomayor has also been highly criticized and had the majority of Senate Republicans oppose her nomination for Supreme Court Justice. She was under close observation and was attacked by critics for when she remarked, “Personal experiences and gender have a lot to do with judges’ decisions.” She was also, at one point, criticized for being racist when she made the comment saying, “I would hope a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn’t lived that life.” But that belief she has sustained throughout her life is what has allowed her to be where she is today. She has always been true to her word and has defended what she thinks is right. As many people have agreed with her, “Personal experiences affect what judges choose to see,” and there is nothing wrong with that because it allows for a fair decision. Sotomayor’s personality not only made her liked and respected in the courtroom, but by the people that surrounded her as well. Robin Kar, who was a clerk for Sotomayor from 1998 to 1999, described her as a "warm, extraordinarily kind and caring person." Kar remarked, "She has an amazing story, but she's also just an amazing person." He also added that she has the ability to get to know all of the people around her. "She was the judge who, in the courthouse for example, knew all of the doormen, knew the cafeteria workers, who knew the janitors -- she didn't just know all of the other judges and the politicians. She really went out of her way to get to know everyone and was well loved by everyone," which truly shows the kind of person Sotomayor is. Sonia Sotomayor’s humility is another great trademark of hers. She mentions, “I stand on the shoulders of countless people, yet there is one extraordinary person who is my life aspiration - that person is my mother, Celina Sotomayor.” To us, Sotomayor is a one of a kind hero, but to Sonia, her mother is the true hero. She taught her that hard-working mentality and led her to everything she has accomplished. Celina now lives in Florida and she still speaks with her everyday. On May 26th 2009, President Barack Obama nominated Sonia Sotomayor to the U.S. Supreme Court Justice.