## 1

#### Interpretation—the aff must disclose the plan text, framework, and advantage area 15 minutes before the round. To clarify, disclosure can occur on the wiki or over message.

#### Violation: They didn’t – screenshots

Graphical user interface, text, application, email

Description automatically generated

#### Standards:

#### 1] Neg prep—4 minutes of prep isn’t enough to put together a coherent 1nc or update generics—15 minutes is necessary to learn about the affirmative, piece together what 1nc positions apply, and research their applications to the affirmative.

#### 2] Aff quality—plan text disclosure discourages cheap shot affs. If the aff isn’t inherent or easily defeated by 15 minutes of research, it should lose—this will answer the 1ar’s claim about innovation—with 15 minutes of prep, there’s still an incentive to find a new strategic, well justified aff, but no incentive to cut a horrible, incoherent aff that the neg can’t check against the broader literature.

#### 3] Level playing field – I’m from a small school with 2 entries and no coaching – we have limited prep and disclosure is key to pre-round adaptation. Big schools can collect flows, and craft prep-outs while we’re left in the dark.

#### 4] Strategy – disclosure helps novices understand the context in which positions are read by good debaters and help with brainstorming potential args– helps compensate for lack of prep among small schools.

#### 5] Engagement – Having an idea of what the aff is going to go for means I can read an NC contextual to the round and incentivizes clash.

#### Voters:

#### Fairness – key to objective evaluation and a safe space for all. Debaters wouldn’t compete if the activity wasn’t fair – outweighs educations since debate participation controls the internal link to topic education.

#### Alienation – the neg is uniquely alienating to small-school debaters who will struggle to bid without disclosure which kills equity in the debate space.

#### Drop the debater – a] deter future abuse, b] set better norms for debate and c] we indict the entire advocacy – dta makes no sense.

#### Competing interps – [a] reasonability is arbitrary and encourages judge intervention since there’s no clear norm, [b] it creates a race to the top where we create the best possible norms for debate.

#### No RVIs – a] illogical, you don’t win for proving that you meet the burden of being fair, logic outweighs since it’s a prerequisite for evaluating any other argument, b] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices.

#### No 1ar theory –

#### 1] Time skew – Forces me to answer the shell, which distracts from substance – substantive clash is k2 education and 1ar theory distracts from it.

#### 2] Judge intervention – I only have 1 speech to answer it and no 3NR which means that the judge has to intervene and decide if my answers were good enough after taking into account to 2ars lies.

#### 3] Reciprocity – I only have once chance to respond after it is introduced while they have two chances

#### 4] Persuasive spin in the 2ar appeals to judges more ows on judge psychology bc they will always win that debate

## 2

#### Our Interpretation is the affirmative should instrumentally defend the resolution – hold the line, CX and the 1AC prove there’s no I-meet – anything new in the 1AR is either extra-T since it includes the non-topical parts of the Aff or effects-T since it’s a future result of the advocacy which both link to our offense.

#### "Resolved" requires a policy.

Merriam Webster '18 (Merriam Webster; 2018 Edition; Online dictionary and legal resource; Merriam Webster, "resolve," <https://www.merriam-webster.com/dictionary/resolve;> RP)  
: a legal or official determination especially: a legislative declaration

#### Resolved requires policy action

Louisiana State Legislature (<https://www.legis.la.gov/legis/Glossary.aspx>) Ngong

**Resolution**

**A legislative instrument** that generally is **used for** making declarations, **stating policies**, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution **uses the term "resolved".** Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4 and Senate Rules 10.9, 13.5 and 15.1)

#### Appropriation

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

Lexico. Oxford Dictionary. Outer Space. https://www.lexico.com/en/definition/outer\_space

The physical universe beyond the earth's atmosphere.

#### Private entities

Law Insider. Private entity definition. <https://www.lawinsider.com/dictionary/private-entity>

Private entity means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

#### First - Fairness – radically re-contextualizing the resolution lets them defend any method tangentially related to the topic exploding Limits, which erases neg ground via perms and renders research burdens untenable by eviscerating predictable limits. Procedural questions come first – debate is a game and it makes no sense to skew a competitive activity as it requires effective negation which incentivizes argument refinement, but skewed burdens deck pedagogical engagement.

#### Fairness turns the Aff – 1] Solutions to status quo unfairness should not be to remove them for all but work to ensure that fairness in every instance is remedied and 2] An unlimited topic hurts low-income and minority debaters by allowing big schools infinite capacity to break non-T Affs – for people who can’t afford to work on debate full-time due to income concerns, their interp says unless you prep out every possible Aff, they lose 3] Bound up in the logic

#### Fairness, also outweighs

#### 1] its an independent impact and prior to the aff intrinsically true in the context of a competitive activity, before you feel comfortable voting aff, you should determine the fair basis to adjudicate substance its contradictory to vote on fairness bad you have no obligation to evaluate their arguments or conclude the aff is a good idea, which proves the lack of fairness renders the activity incoherent

#### 2] Scope, it’s the only impact you can solve for, voting for them doesn’t resolve antiblackness in debate but voting for T remedies procedural inequalities caused by their aff

#### 3] Only way the game works, undergirds competitive incentive to research and prep engage and clash for argumentative evaluation, OOR and prep solves their education offense, but fairness ensures that this hour is productive, this protects under resourced debaters from impossible research burdens, their version makes debate pay to play, but our model makes that better by forcing large teams to be bound to the topic

#### Second - Clash – picking any grounds for debate precludes the only common point of engagement, which obviates preround research and incentivizes retreat from controversy by eliminating any effective clash. Only the process of negation distinguishes debate and discussion by necessitating iterative testing and effective engagement, but an absence of constant refinement dooms revolutionary potential.

#### Third – SSD – their model that allows them to side-step the topic on both the Aff and Neg hurts debate as a site of role experimentation – choosing to individually engage both sides solves argument refinement and self-reflexivity breeding constantly evolving methodology which is key to activist resistance BUT side-stepping it ingrains ideological dogmatism by imposing artificial lines in the sand for what not to experiment replicating imperial ideologies about exclusion.

#### Fourth- Debate is imperfect, but only our interpretation can harness legal education to understand the law’s strategic reversibility paired with intellectual survival skills.

Archer 18, Deborah N. "Political Lawyering for the 21st Century." Denv. L. Rev. 96 (2018): 399. (Associate Professor of Clinical Law at NYU School of Law)//Elmer

Political justice lawyers must be able to break apart a systemic problem into manageable components. The complexity of social problems, can cause law students, and even experienced political lawyers, to become overwhelmed. In describing his work challenging United States military and economic interventions abroad, civil rights advocate and law professor Jules Lobel wrote of this process: “Our foreign-policy litigation became a sort of Sisyphean quest as we maneuvered through a hazy maze cluttered with gates. Each gate we unlocked led to yet another that blocked our path, with the elusive goal of judicial relief always shrouded in the twilight mist of the never-ending maze.”144 Pulling apart a larger, systemic problem into its smaller components can help elucidate options for advocacy. An instructive example is the use of excessive force by police officers against people of color. Every week seems to bring a new video featuring graphic police violence against Black men and women. Law students are frequently outraged by these incidents. But the sheer frequency of these videos and lack of repercussions for perpetrators overwhelm those students just as often. What can be done about a problem so big and so pervasive? To move toward justice, advocates must be able to break apart the forces that came together to lead to that moment: intentional discrimination, implicit bias, ineffective training, racial segregation, lack of economic opportunity, the over-policing of minority communities, and the failure to invest in non-criminal justice interventions that adequately respond to homelessness, mental illness, and drug addiction. None of these component problems are easily addressed, but breaking them apart is more manageable—and more realistic—than acting as though there is a single lever that will solve the problem. After identifying the component problems, advocates can select one and repeat the process of breaking down that problem until they get to a point of entry for their advocacy. 2. Identifying Advocacy Alternatives As discussed earlier, political justice lawyering embraces litigation, community organizing, interdisciplinary collaboration, legislative reform, public education, direct action, and other forms of advocacy to achieve social change. After parsing the underlying issues, lawyers need to identify what a lawyer can and should do on behalf of impacted communities and individuals, and this includes determining the most effective advocacy approach. Advocates must also strategize about what can be achieved in the short term versus the long term. The fight for justice is a marathon, not a sprint. Many law students experience frustration with advocacy because they expect immediate justice now. They have read the opinion in Brown v. Board of Education, but forget that the decision was the result of a decades-long advocacy strategy.145 Indeed, the decision itself was no magic wand, as the country continues to work to give full effect to the decision 70 years hence. Advocates cannot only fight for change they will see in their lifetime, they must also fight for the future.146 Change did not happen over night in Brown and lasting change cannot happen over night today. Small victories can be building blocks for systemic reform, and advocates must learn to see the benefit of short-term responsiveness as a component of long-term advocacy. Many lawyers subscribe to the American culture of success, with its uncompromising focus on immediate accomplishments and victories.147 However, those interested in social justice must adjust their expectations. Many pivotal civil rights victories were made possible by the seemingly hopeless cases that were brought, and lost, before them.148 In the fight for justice, “success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”149 Again, Professor Lobel’s words are instructive: “the current commitment of civil rights groups, women’s groups, and gay and lesbian groups to a legal discourse to legal activism to protect their rights stems in part from the willingness of activists in political and social movements in the nineteenth century to fight for rights, even when they realized the courts would be unsympathetic.”150 Professor Lobel also wrote about Helmuth James Von Moltke, who served as legal advisor to the German Armed Services until he was executed in 1945 by Nazis: “In battle after losing legal battle to protect the rights of Poles, to save Jews, and to oppose German troops’ war crimes, he made it clear that he struggled not just to win in the moment but to build a future.”151 3. Creating a Hierarchy of Values Advocates challenging complex social justice problems can find it difficult to identify the correct solution when one of their social justice values is in conflict with another. A simple example: a social justice lawyer’s demands for swift justice for the victim of police brutality may conflict with the lawyer’s belief in the officer’s fundamental right to due process and a fair trial. While social justice lawyers regularly face these dilemmas, law students are not often forced to struggle through them to resolution in real world scenarios—to make difficult decisions and manage the fallout from the choices they make in resolving the conflict. Engaging in complex cases can force students to work through conflicts, helping them to articulate and sharpen their beliefs and goals, forcing them to clearly define what justice means broadly and in the specific context presented. Lawyers advocating in the tradition of political lawyering anticipate the inevitable conflict between rights, and must seek to resolve these conflicts through a “hierarchy of values.”152 Moreover, in creating the hierarchy, the perspectives of those directly impacted and marginalized should be elevated “because it is in listening to and standing with the victims of injustice that the need for critical thinking and action become clear.”153 One articulation of a hierarchy of values asserts “people must be valued more than property. Human rights must be valued more than property rights. Minimum standards of living must be valued more than the privileged liberty of accumulated political, social and economic power. Finally, the goal of increasing the political, social, and economic power of those who are left out of the current arrangements must be valued more than the preservation of the existing order that created and maintains unjust privilege.”154 C. Rethinking the Role of the Clinical Law Professor: Moving From Expert to Colleague Law students can learn a new dimension of lawyering by watching their clinical law professor work through innovative social justice challenges alongside them, as colleagues. This is an opportunity not often presented in work on small cases where the clinical professor is so deeply steeped in the doctrine and process, the case is largely routine to her and she can predict what is to come and adjust supervision strategies accordingly.155 However, when engaged in political lawyering on complex and novel legal issues, both the student and the teacher may be on new ground that transforms the nature of the student-teacher relationship. A colleague often speaks about acknowledging the persona professors take on when they teach and how that persona embodies who they want to be in the classroom—essentially, whenever law professors teach they establish a character. The persona that a clinical professor adopts can have a profound effect on the students, because the character is the means by which the teacher subtly models for the student—without necessarily ever saying so— the professional the teacher holds herself to be and the student may yet become. In working on complex matters where the advocacy strategy is unclear, the clinical professor makes himself vulnerable by inviting students to witness his struggles as they work together to develop the most effective strategy. By making clear that he does not have all of the answers, partnering with his students to discover the answers, and sharing his own missteps along the way, a clinical law professor can reclaim opportunities to model how an experienced attorney acquires new knowledge and takes on new challenges that may be lost in smaller case representation.156 Clinical law faculty who wholeheartedly subscribe to the belief that professors fail to optimize student learning if students do not have primary control of a matter from beginning to end may view a decision to work in true partnership with students on a matter as a failure of clinical legal education. Indeed, this partnership model will inevitably impact student autonomy and ownership of the case.157 But, there is a unique value to a professor working with her student as a colleague and partner to navigate subject matter new to both student and professor.158 In this relationship, the professor can model how to exercise judgment and how to learn from practice: to independently learn new areas of law; to consult with outside colleagues, experts in the field, and community members without divulging confidential information; and to advise a client in the midst of ones own learning process.159 III. A Pedagogical Course Correction “If it offends your sense of justice, there’s a cause of action.” - Florence Roisman, Professor, Indiana University School of Law160 In response to the shifts in my students’ perspectives on racism and systemic discrimination, their reluctance to tackle systemic problems, their conditioned belief that strategic litigation should be a tool of last resort, and my own discomfort with reliance on small cases in my clinical teaching, I took a step back in my own practice. How could I better teach my students to be champions for justice even when they are overwhelmed by society’s injustice; to challenge the complex and systemic discrimination strangling minority communities, and to approach their work in the tradition of political lawyering. I reflected not only on my teaching, but also on my experiences as a civil rights litigator, to focus on what has helped me to continue doing the work despite the frustrations and difficulties. I realized I was spending too much time teaching my students foundational lawyering skills, and too little time focused on the broader array of skills I knew to be critical in the fight for racial justice. We regularly discussed systemic racism during my clinic seminars in order to place the students’ work on behalf of their clients within a larger context. But by relying on carefully curated small cases I was inadvertently desensitizing my students to a lawyer’s responsibility to challenge these systemic problems, and sending the message that the law operates independently from this background and context. I have an obligation to move beyond teaching my students to be “good soldiers for the status quo” to ensuring that the next generation is truly prepared to fight for justice.161 And, if my teaching methods are encouraging the reproduction of the status quo it is my obligation to develop new interventions.162 Jane Aiken’s work on “justice readiness” is instructive on this point. To graduate lawyers who better understand their role in advancing justice, Jane Aiken believes clinics should move beyond providing opportunities for students to have a social justice experience to promoting a desire and ability to do justice.163 She suggests creating disorienting moments by selecting cases where students have no outside authority on which to rely, requiring that they draw from their own knowledge base and values to develop a legal theory.164 Disorienting moments give students: experiences that surprise them because they did not expect to experience what they experienced. This can be as simple as learning that the maximum monthly welfare benefit for a family of four is about $350. Or they can read a [ ] Supreme Court case that upheld Charles Carlisle’s conviction because a wyer missed a deadline by one day even though the district court found there was insufficient evidence to prove his guilt. These facts are often disorienting. They require the student to step back and examine why they thought that the benefit amount would be so much more, or that innocence would always result in release. That is an amazing teaching moment. It is at this moment that we can ask students to examine their own privilege, how it has made them assume that the world operated differently, allowing them to be oblivious to the indignities and injustices that occur every day.165 Giving students an opportunity to “face the fact that they cannot rely on ‘the way things are’ and meet the needs of their clients” is a powerful approach to teaching and engaging students.166 But, complex problems call for larger and more sustained disorienting moments. Working with students on impact advocacy in the model of political lawyering provides a range of opportunities to immerse students in disorienting moments. A. Immersing Students in “Disorienting Moments”: Race, Poverty, and Pregnancy Today, I try to immerse my students in disorienting moments to make them justice ready and move them in the direction of political lawyering. My clinic docket has always included a small number of impact litigation matters. However, in the past these cases were carefully screened to ensure that they involved discrete legal issues and client groups. In addition, our representation always began after our outside co-counsel had already conducted an initial factual investigation, identified the core legal issues, and developed an overall advocacy strategy, freeing my students from these responsibilities. Now, my clinic takes on impact matters at earlier stages where the strategies are less clear and the legal questions are multifaceted and ill- defined. This mirrors the experiences of practicing social justice lawyers, who faced with an injustice, must discover the facts, identify the legal claims, develop strategy, cultivate allies, and ultimately determine what can be done—with the knowledge that “nothing” is not an option. This approach provides students with the space to wrestle with larger, systemic issues in a structured and supportive educational environment, taking on cases that seem difficult to resolve and working to bring some justice to that situation. They are also gaining experience in many of the fundamentals of political lawyering advocacy. Recently, my students began work on a new case. Several public and private hospitals in low-income New York City neighborhoods are drug testing pregnant women or new mothers without their knowledge or informed consent. This practice reflects a disturbing convergence between racial and economic disparities, and can have a profound impact on the lives of the poor women of color being tested at precisely the time when they are most in need of support. We began our work when a community organization reached out to the clinic and spoke to us about complaints that hospitals around New York City were regularly testing pregnant women—almost exclusively women of color—for drug use during prenatal check ups, during the chaos and stress of labor and delivery, or during post-delivery. The hospitals report positive test results to the City’s Administration for Children’s Services (“ACS”), which is responsible for protecting children from abuse and neglect, for further action.167 Most of the positive tests are for marijuana use. After a report is made, ACS commences an investigation to determine whether child abuse or neglect has taken place, and these investigations trigger inquiries into every aspect of a family’s life. They can lead to the institution of child neglect proceedings, and potentially to the temporary or permanent removal of children from the household. Even where that extreme result is avoided, an ACS investigation can open the door to the City’s continued, and potentially unwelcome, involvement in the lives of these families. These policies reflect deeply inequitable practices. Investigating a family after a positive drug test is not necessarily a bad thing. After all, ACS offers a number of supportive services that can help stabilize and strengthen vulnerable families. And of course, where children’s safety is at risk, removal may sometimes be the appropriate result. However, hospitals do not conduct regular drug tests of mothers in all New York City communities. Private hospitals in wealthy areas rarely test pregnant women or new mothers for drug misuse. In contrast, at hospitals serving poor women, drug testing is routine. Race and class should not determine whether such testing, and the consequences that result, take place. Investigating the New York City drug-testing program immersed the students in disorienting moments at every stage of their work. During our conversations, the students regularly expressed surprise and discomfort with the hospitals’ practices. They were disturbed that public hospitals— institutions on which poor women and women of color rely for something as essential as health care—would use these women’s pregnancy as a point of entry to control their lives.168 They struggled to explain how the simple act of seeking medical care from a hospital serving predominantly poor communities could deprive patients of the respect, privacy, and legal protections enjoyed by pregnant women in other parts of the City. And, they were shocked by the way institutions conditioned poor women to unquestioningly submit to authority.169 Many of the women did not know that they were drug tested until the hospital told them about the positive result and referred them to ACS. Still, these women were not surprised: that kind of disregard, marginalization, and lack of consent were a regular aspect of their lives as poor women of color. These women were more concerned about not upsetting ACS than they were about the drug testing. That so many of these women could be resigned to such a gross violation of their rights was entirely foreign to most of my students. B. Advocacy in the Face of Systemic Injustice Although the students are still in the early stages of their work, they have already engaged in many aspects of political justice lawyering. They approached their advocacy focused on the essence of political lawyering— enabling poor, pregnant women of color who enjoy little power or respect to claim and enjoy their rights, and altering the allocation of power from government agencies and institutions back into the hands of these women. They questioned whose interests these policies and practices were designed to serve, and have grounded their work in a vision of an alternative societal construct in which their clients and the community are respected and supported. The clinic students were given an opportunity to learn about social, legal, and administrative systems as they simultaneously explored opportunities to change those systems. The students worked to identify the short and long term goals of the impacted women as well the goals of the larger community, and to think strategically about the means best suited to accomplish these goals. And, importantly, while collaborating with partners from the community and legal advocacy organizations, the students always tried to keep these women centered in their advocacy. In breaking down the problem of drug testing poor women of color, the students worked through an issue that lives at the intersection of reproductive freedom, family law, racial justice, economic inequality, access to health care, and the war on drugs. In their factual investigation, which included interviews of impacted women, advocates, and hospital personnel, and the review of records obtained through Freedom of Information Law requests, the students began to break down this complex problem. They explored the disparate treatment of poor women and women of color by health care providers and government entities, implicit and explicit bias in healthcare, the disproportionate referral of women of color to ACS, the challenges of providing medical services to underserved communities, the meaning of informed consent, the diminished rights of people who rely on public services, and the criminalization of poverty. The students found that list almost as overwhelming as the initial problem itself, but identifying the components allowed the students to dig deeper and focus on possible avenues of challenge and advocacy. It was also critically important to make the invisible forces visible, even if the law currently does not provide a remedy. Working on this case also gave the students and me the opportunity to work through more nuanced applications of some of the lawyering concepts that were introduced in their smaller cases, including client-centered lawyering when working on behalf of the community; large-scale fact investigation; transferring their “social justice knowledge” to different contexts; crafting legal and factual narratives that are not only true to the communities’ experience, but can persuade and influence others; and how to develop an integrated advocacy plan. The students frequently asked whether we should even pursue the matter, questioning whether this work was client- centered when it was no longer the most pressing concern for many of the women we met. These doubts opened the door to many rich discussions: can we achieve meaningful social change if we only address immediate crises; can we progress on larger social justice issues without challenging their root causes; how do we recognize and address assumptions advocates may have about what is best for a client; and how can we keep past, present, and future victims centered in our advocacy? The work on the case also forced the clinic students to work through their own understanding of a hierarchy of values. They struggled with their desire to support these community hospitals and the public servants who work there under difficult circumstances on the one hand, and their desire to protect women, potentially through litigation, from discriminatory practices. They also struggled to reconcile their belief that hospitals should take all reasonable steps to protect the health and safety of children, as well as their emotional reaction to pregnant mothers putting their unborn children in harms way by using illegal drugs against the privacy rights of poor and marginalized women. They were forced to pause and think deeply about what justice would look like for those mothers, children, and communities. CONCLUSION America continues to grapple with systemic injustice. Political justice lawyering offers powerful strategies to advance the cause of justice—through integrated advocacy comprising the full array of tools available to social justice advocates, including strategic systemic reform litigation. It is the job of legal education to prepare law students to become effective lawyers. For those aspiring to social justice that should include training students to utilize the tools of political justice lawyers. Clinical legal offers a tremendous opportunity to teach the next generation of racial and social justice advocates how to advance equality in the face of structural inequality, if only it will embrace the full array of available tools to do so. In doing so, clinical legal education will not only prepare lawyers to enact social change, they can inspire lawyers overwhelmed by the challenges of change. In order to provide transformative learning experiences, clinical education must supplement traditional pedagogical tools and should consider political lawyering’s potential to empower law students and communities.

#### TVA – [Affirm the public trust doctrine aff which solves legal ambiguity of space colonization by shutting out IP rights, then apply those spillover policies to rights]

#### TVA is terminal defense – proves our models aren’t mutually exclusive - any response to the substance of the TVA is offense for us because it proves our model allows for clear contestation. Form over Content doesn’t take it out since we don’t restrict Form, just the substantive burden of the Aff.

## Case

#### The rejection of rights is a strategic loss for present political struggles – Agamben’s totalizing form of critical theory increases oppression.

Deranty 4 [Jean-Philippe: Associate Lecturer in Philosophy at Macquarie University (Australia) “Agamben’s challenge to normative theories of modern rights,” *borderlands e-journal*, Volume 3, Number 1, http://www.borderlandsejournal.adelaide.edu.au/vol3no1\_2004/deranty\_agambnschall.htm]

11. In the case of empirical examples, the erasure of difference between phenomena seems particularly counter-intuitive in the case of dissimilar modes of internment. From a practical point of view, it seems counter-productive to claim that there is no substantial difference between archaic communities and modern communities provided with the language of rights, between the lawlessness of war times and democratic discourse. There must be a way of problematising the ideological mantra of Western freedom, of modernity’s moral superiority, that does not simply equate it with Nazi propaganda (Ogilvie 2001). Habermas and Honneth probably have a point when they highlight the advances made by modernity in the entrenchment of rights. If the ethical task is that of testimony, then our testimony should go also to all the individual lives that were freed from alienation by the establishment of legal barriers against arbitrariness and exclusion. We should heed Honneth’s reminder that struggles for social and political emancipation have often privileged the language of rights over any other discourse (Fraser, Honneth 2003). To reject the language of human rights altogether could be a costly gesture in understanding past political struggles in their relevance for future ones, and a serious strategic, political loss for accompanying present struggles. We want to criticise the ideology of human rights, but not at the cost of renouncing the resources that rights provide. Otherwise, critical theory would be in the odd position of casting aspersions upon the very people it purports to speak for, and of depriving itself of a major weapon in the struggle against oppression.

#### The struggle for equality through rights is vital – we should rethink rights without undermining political struggles

Deranty 4 [Jean-Philippe: Associate Lecturer in Philosophy at Macquarie University (Australia), “Agamben’s challenge to normative theories of modern rights,” *borderlands e-journal*, Volume 3, Number 1, http://www.borderlandsejournal.adelaide.edu.au/vol3no1\_2004/deranty\_agambnschall.htm]

47. If, with Rancière, we define politics not through the institution of sovereignty, but as a continual struggle for the recognition of basic equality, and thereby strongly distinguish politics from the police order viewed as the functional management of communities (Rancière 1999), then it is possible to acknowledge the normative break introduced by the democratic revolutions of the modern age without falling into a one-sided view of modernity as a neat process of rationalisation.What should be stressed about modernity is not primarily the list of substantive inalienable and imprescriptible human rights, but the equal entitlement of all to claim any rights at all.This definition of politics must be accompanied by the parallel acknowledgment that the times that saw the recognition of the fundamental equality of all also produced the total negation of this principle. But this parallel claim does not necessarily render the first invalid. Rather it points to a tension inherent in modern communities, between the political demands of equality and the systemic tendencies that structurally produce stigmatisation and exclusion. 48. One can acknowledge the descriptive appeal of the biopower hypothesis without renouncing the antagonistic definition of politics. As Rancière remarks, Foucault’s late hypothesis is more about power than it is about politics (Rancière 2002). This is quite clear in the 1976 lectures (Society must be defended) where the term that is mostly used is that of "biopower". As Rancière suggests, when the "biopower" hypothesis is transformed into a "biopolitical" thesis, the very possibility of politics becomes problematic. There is a way of articulating modern disciplinary power and the imperative of politics that is not disjunctive. The power that subjects and excludes socially can also empower politically simply because the exclusion is already a form of address which unwittingly provides implicit recognition. Power includes by excluding, but in a way that might be different from a ban. This insight is precisely the one that Foucault was developing in his last writings, in his definition of freedom as "agonism" (Foucault 1983: 208-228): "Power is exercised only over free subjects, and only insofar as they are free" (221). The hierarchical, exclusionary essence of social structures demands as a condition of its possibility an equivalent implicit recognition of all, even in the mode of exclusion. It is on the basis of this recognition that politics can sometimes arise as the vindication of equality and the challenge to exclusion. 49. This proposal rests on a logic that challenges Agamben’s reduction of the overcoming of the classical conceptualisation of potentiality and actuality to the single Heideggerian alternative. Instead of collapsing or dualistically separating potentiality and actuality, one would find in Hegel’s modal logic a way to articulate their negative, or reflexive, unity, in the notion of contingency. Contingency is precisely the potential as existing, a potential that exists yet does not exclude the possibility of its opposite (Hegel 1969: 541-554). Hegel can lead the way towards an ontology of contingency that recognises the place of contingency at the core of necessity, instead of opposing them. The fact that the impossible became real vindicates Hegel’s claim that the impossible should not be opposed to the actual. Instead, the possible and the impossible are only reflected images of each other and, as actual, are both simply the contingent.Auschwitz should not be called absolute necessity (Agamben 1999a: 148), but absolute contingency. The absolute historical necessity of Auschwitz is not "the radical negation" of contingency, which, if true, would indeed necessitate a flight out of history to conjure up its threat. Its absolute necessity in fact harbours an indelible core of contingency, the locus where political intervention could have changed things, where politics can happen. Zygmunt Bauman’s theory of modernity and his theory about the place and relevance of the Holocaust in modernity have given sociological and contemporary relevance to this alternative historical-political logic of contingency (Bauman 1989). 50. In the social and historical fields, politics is only the name of the contingency that strikes at the heart of systemic necessity. An ontology of contingency provides the model with which to think together both the possibility, and the possibility of the repetition of, catastrophe, as the one heritage of modernity, and the contingency of catastrophe as logically entailing the possibility of its opposite. Modernity is ambiguous because it provides the normative resources to combat the apparent necessity of possible systemic catastrophes. Politics is the name of the struggle drawing on those resources. 51. This ontology enables us also to rethink the relationship of modern subjects to rights. Modern subjects are able to consider themselves autonomous subjects because legal recognition signals to them that they are recognised as full members of the community, endowed with the full capacity to judge. This account of rights in modernity is precious because it provides an adequate framework to understand real political struggles, as fights for rights. We can see now how this account needs to be complemented by the notion of contingency that undermines the apparent necessity of the progress of modernity. Modern subjects know that their rights are granted only contingently, that the possibility of the impossible is always actual. This is why rights should not be taken for granted. But this does not imply that they should be rejected as illusion, on the grounds that they were disclosed as contingent in the horrors of the 20th century. Instead, their contingency should be the reason for constant political vigilance.52. By questioning the rejection of modern rights, one is undoubtedly unfaithful to the letter of Benjamin. Yet, if one accepts that one of the great weaknesses of the Marxist philosophy of revolution was its inability to constructively engage with the question of rights and the State, then it might be the case that the politics that define themselves as the articulation of demands born in the struggles against injustice are better able to bear witness to the "tradition of the oppressed" than their messianic counterparts.

#### Agamben’s framework is too simplistic and ultimately incoherent – the sovereign is not the condition for political exclusion.

Rabinow 6 [Paul, Anthropology, UC-Berkeley, and Nikolas Rose, Sociology, LSE, 2006, BioSocieties 1 (2): 195–217 "Biopower Today" <http://dx.doi.org/10.1017/S1745855206040014>]

Giorgio **Agamben**, in a series of haunting books**, identifies the Holocaust as the ultimate exemplar of biopower**, and biopower as the hidden meaning of all forms of power from the ancient world to the present. In particular he explores the moments that he terms, after Carl Schmitt, ‘states of exception’, when a sovereign state declares a time or a place where the rule of law can be suspended in the name of self-defence or national security (Agamben, 1995, 1996, 1998, 2000a, 2000b, 2005). There is much to be learned from these studies of the profound traumas that mark European histories: we agree that Holocaust is not an exceptional moment of throwback to a singular barbarianism, but an enduring possibility intrinsic to the very project of civilization and the law. However, **Agamben grounds his ana- lysis in a particular way** that **we find problematic**. **He argues that all power rests ultimately on the ability of one to take the life of another**—it is a power over life grounded in the pos- sibility of enforcing death. He characterizes this power by reference to the obscure metaphor of homo sacer—the enigmatic figure in Roman law whose crimes made his sacrifice impos- sible but who could be killed with impunity. Like this figure, who is reduced from bios— crudely, the way of life proper to an individual or group in a polity—to zo¨ e—‘bare life’**— he suggests that the birth of biopower in modernity marks the point at which the biological life of subjects enters politics and belongs entirely to the State.** The ultimate grasp of the Sovereign or the State over the lives of subjects is exemplified, for him, in the concentration camps, labour camps and death camps of the Nazis: sovereign States depend on their capa- city to create states of exception. Such states may be exceptional, but are nonetheless imma- nent in modernity itself—a fourth space added to that of state, nation and land, in which inhabitants are stripped of everything but their bare life, which is placed without recourse in the hands of power. Indeed they are the ‘nomos’ of modernity: ‘This is why the camp is the very paradigm of political space at the point at which politics becomes biopolitics and homo sacer is virtually confused with the citizen’ (Agamben, 1998: 171). Agamben takes seriously Adorno’s challenge—how is it possible to think after Ausch- witz (Mesnard and Kahan, 2001)? But, for that very reason**, it is to trivialize Auschwitz to see it as the hidden possibility in every instance where living beings enter the scope of reg- ulation**, control and government. The power to command under threat of death is exercised by States and their surrogates in multiple instances, in micro forms and in geopolitical rela- tions. But **this does not demonstrate that this form of power**—commands backed up by the ultimate threat of death—**is the guarantee or underpinning principle of all forms of biopower** in contemporary liberal societies. **Nor is it useful to use this single diagram to ana- lyse every contemporary instance of thanatopolitics**—from Rwanda to the epidemic of Aids deaths across Africa. Surely **the essence of critical thought must be its capacity to make dis- tinctions that can facilitate judgement and action.**8 Holocaust is undoubtedly one configuration that modern biopower can take. Racism allows power to subdivide a population into subspecies, to designate these in terms of in terms of a biological substrate, and to initiate and sustain an array of dynamic relations in which the exclusion, incarceration or death of those who are inferior can be seen as some- thing that will make life in general healthier and purer. As Foucault put it in 1976, ‘racism justifies the death-function in the economy of biopower by appealing to the principle that the death of others makes one biologically stronger insofar as one is a member of a race or a population’ (2002: 258). It is true that in this lecture he suggests that it is ‘the emer- gence of biopower that inscribes [racism] in the mechanisms of the State . . . as the basic mechanism of power, as it is exercised in modern States’ (2002: 254). But **the Nazi regime was, in** **his view, exceptional**—‘a paroxysmal development’: We have, then, in Nazi society something that is really quite extraordinary: this is a society which has generalized biopower in an absolute sense, but which has also gen- eralized the sovereign right to kill . . . to kill anyone, meaning not only other people but also its own people . . . a coincidence between a generalized biopower and a dicta- torship that was at once absolute and retransmitted throughout the entire social body. (2002: 260**) Biopower, in the form it took under National Socialism, was a complex mix of the politics of life and the politics of death**—as Robert Proctor (1999) points out, **Nazi doctors and health activists waged war on tobacco, sought to curb exposure to asbestos, worried about the over-use of medication and X-rays**, stressed the importance of a diet free of petrochem- ical dyes and preservatives, campaigned for whole-grain bread and foods high in vitamins and fibre, and many were vegetarians. But, **within this complex, the path to the death camps was dependent upon a host of other historical, moral, political and technical conditions. Holocaust is neither exemplary of thanatopolitics, nor the hidden dark truth of biopower.**

#### The CP is a pre-requisite and extending rights to previously excluded groups is good.

**Patton 6** [Paul Patton, [University of New South Wales] “Deleuze’s Practical Philosophy” 2006]

Deleuze and Guattari's "utopian" conception of philosophy implies a more critical relation to opinion. Their conception of the political vocation of philosophy as helping to bring about "new earths and new peoples" suggests more extravagant ambitions than Rawls' realistic utopianism. It points to their focus on critical engagement with and transformation of considered opinions rather than their systematic reconstruction. That is why, in the brief exergue to Negotiations, Deleuze presents philosophy as engaged in a "guerilla campaign" against public opinion and other powers that be such as religions and laws (Deleuze 1995). Success in this kind of political philosophy is not measured by the test of reflective equilibrium or by the capacity to maintain a well-ordered society but by the capacity of its concepts to engage with and assist movements of deterritorialization in the present. Deleuze's criticisms of the inequalities produced by capitalism might be understood in this light. They challenge existing opinions about what is acceptable with the aim of extending and developing equality of condition within contemporary societies. Such criticism must engage with forms of becoming-revolutionary that are immanent and active in present social and political life if they are to assist in opening up paths to the invention of new forms of individual and collective life. The concepts of becoming-revolutionary and becoming-democratic together define the novel normativity of Deleuze's later political philosophy. Deleuze's support for "jurisprudence," understood as the invention of new rights, indicates how these two becomings might converge in effective political change: revolutionary-becomings provide the micropolitical basis on which new rights may emerge. In turn, these become incorporated into the moral and legal order of existing democracies, thereby extending their responsiveness to the will of individuals and groups affected by new technologies, new therapeutic and other practices (Deleuze 1995, 169-70). Becoming-revolutionary and becomingdemocratic do not specify a determinate state of affairs that we should strive to bring about, like the "just constitutional regime" which Rawls takes to be the object of political endeavor (Rawls 1993, 93). Like all the concepts that philosophy invents or reinvents in order to counteractualize the present, these do not simply represent an actual state of affairs. They are nevertheless concepts of practical reason in the sense that they give expression to a pure event of revolution and a pure event of democracy. The "pure event" of democracy points towards future as yet unrealized forms of democracy, but also reminds us that there is no definitive form that will ever arrive. In the same way, the pure event of revolution is not reducible to the events of actual historical uprisings. In each case, it is not the concept of an actually or potentially existing democracy or revolution but rather "the contour" or "the configuration" ofan event that remains perpetually to come (Deleuze and Guattari 1994, 32-3).

#### Natural Resources in space are mainly made up by asteroids, and they are very important

**Elvis 21:**

Elvis, M. (2021). *Riches in space*. aeon . Retrieved 2022, from https://aeon.co/essays/asteroid-mining-could-pay-for-space-exploration-and-adventure

Asteroids are the remnants of our solar system’s youthful exuberance, the leftover crumbs from when the planets formed. For much of the space age, **asteroids were ignored in favour of the far more glamorous planets, and the Moon**. The asteroids – dark, misshapen rocks, hard to see and hard to find – have long flown beneath our notice. But that was a **mistake.** They have a **crucial role to play in the future** of our species – in fact, the survival and flourishing of humanity are tied up with asteroids. There are three reasons. They bear messages from the beginnings of the solar system, before our Earth came into being, and how we got here matters to where we’re going. They are also **hoards of resources** that might lead us to a **future without scarcity**. And last – a minor detail – a single asteroid could wipe us off the face of our planet. Let’s look at each in turn. Asteroids are the remnants of collisions between some of the first mini-planets (called ‘planetesimals’) that formed in abundance when the solar system was no older than a few million years. As a result, many asteroids are just piles of broken rubble held together by their own weak gravity, about a million times more feeble than the gravity we feel here on Earth. Untangling the eventful history of the solar system is easier with asteroids because they’re unsullied envoys from those turbulent early times. Unlike the planets, nothing much has happened to the asteroids in the past few billion years. And there are millions of them, the vast majority orbiting the Sun between Mars and Jupiter in a band called the ‘Main Belt’. What can we actually *do* with asteroids? That brings us to my favourite thing about them: their resources. Being an idealistic astrophysicist, my interest is in the money to be made from them. That really is idealistic because, if we **can make a profit mining the asteroids, then doing bigger things in space will become a lot cheaper**. Capitalism has its faults, but one thing it does well is to make things cheaper. I want to use it as a tool so that we can build far bigger telescopes than we could practically realise today. What do astronomers want? More light! Bigger telescopes! Asteroid mining could make that dream a reality. The siren call of asteroids for miners is that the Main Belt asteroids contain vast amounts of resources. The iron found in asteroids adds up to some 10 million times the iron that we have in proven reserves on Earth. That’s a lot. It’s enough to build many rings of iron girders all the way around Earth’s orbit, along the lines of the science fiction novel *Ringworld* (1970) by Larry Niven. Not that a ringworld is a sensible thing to make, but it is a *really* big ring. More plausibly, with that much iron we could build cities in space, as envisaged by the physicist Gerard K O’Neill in the 1970s. Each of these cities would be big enough for a million people to live in. They would be rotating cylinders, and as a citizen of one you would be walking around inside the cylinder’s surface, feeling a fake gravity from the centrifugal force. That’s the scale of resources we’re talking about. These vast material supplies could make for an era that people call ‘post-scarcity’, where there’s plenty for everyone, just as there is in the 23rd century of the *Star Trek* science fiction franchise. The starship crew on *Star Trek* don’t work to keep themselves fed and housed, that’s taken for granted. They work for adventure and exploration. Asteroid wealth could help all of us take a step towards that happy state. The problem is how to get started. Iron in space is not going to make for giant profits in the short run. On the ground, it sells for less than $200 a ton. It would be worth more in space, but unfortunately there’s no one to buy huge tonnages of iron in space. To adapt the tagline from the *Alien* movies – ‘In space, no one can hear you sell.’ It certainly isn’t worth bringing space iron back to Earth since the cost of doing so would far exceed the price it could command. Starting to mine space for resources will have to begin with something so valuable that the cost of obtaining it in space is small by comparison. For now, the best bets are precious metals and – surprise – water. **Precious metals are obvious. Platinum sells for about $33.5 million a ton**, and we know from meteorites that some asteroids are richer in platinum than any mine on Earth. That sounds promising. **Platinum sales run at about 200 tons, or billions of dollars, per year**. The bad news is that ‘richer than any mine on Earth’ is still concentrations of just tens of grams per ton, and extracting those precious grams isn’t easy. We can’t just bring an asteroid near to Earth to start extracting the platinum where we can have heavy machinery to work on it. That would take way too much fuel because, to carry more mass, rockets have to carry exponentially more fuel; unlike airplanes, they don’t get the oxygen for free from their surroundings, they have to pull it along with them. Any refining of platinum will have to be done robotically out in the native orbit of the asteroid. That’s quite a challenge.