# Loyola R4 – 1NC v Sage MP

## 1

#### Interpretation: “medicines” is a generic bare plural. The aff may not defend that member nations of the World Trade Organization ought to reduce intellectual property protections for a medicine or subset of medicines.

Nebel 19. [Jake Nebel is an assistant professor of philosophy at the University of Southern California and executive director of Victory Briefs. He writes a lot of this stuff lol – duh.] “Genericity on the Standardized Tests Resolution.” Vbriefly. August 12, 2019. <https://www.vbriefly.com/2019/08/12/genericity-on-the-standardized-tests-resolution/?fbclid=IwAR0hUkKdDzHWrNeqEVI7m59pwsnmqLl490n4uRLQTe7bWmWDO_avWCNzi14> TG

Both distinctions are important. Generic resolutions can’t be affirmed by specifying particular instances. But, since generics tolerate exceptions, plan-inclusive counterplans (PICs) do not negate generic resolutions.

Bare plurals are typically used to express generic generalizations. But there are two important things to keep in mind. First, generic generalizations are also often expressed via other means (e.g., definite singulars, indefinite singulars, and bare singulars). Second, and more importantly for present purposes, bare plurals can also be used to express existential generalizations. For example, “Birds are singing outside my window” is true just in case there are some birds singing outside my window; it doesn’t require birds in general to be singing outside my window.

So, what about “colleges and universities,” “standardized tests,” and “undergraduate admissions decisions”? Are they generic or existential bare plurals? On other topics I have taken great pains to point out that their bare plurals are generic—because, well, they are. On this topic, though, I think the answer is a bit more nuanced. Let’s see why.

“Colleges and universities” is a generic bare plural. I don’t think this claim should require any argument, when you think about it, but here are a few reasons.

First, ask yourself, honestly, whether the following speech sounds good to you: “Eight colleges and universities—namely, those in the Ivy League—ought not consider standardized tests in undergraduate admissions decisions. Maybe other colleges and universities ought to consider them, but not the Ivies. Therefore, in the United States, colleges and universities ought not consider standardized tests in undergraduate admissions decisions.” That is obviously not a valid argument: the conclusion does not follow. Anyone who sincerely believes that it is valid argument is, to be charitable, deeply confused. But the inference above would be good if “colleges and universities” in the resolution were existential. By way of contrast: “Eight birds are singing outside my window. Maybe lots of birds aren’t singing outside my window, but eight birds are. Therefore, birds are singing outside my window.” Since the bare plural “birds” in the conclusion gets an existential reading, the conclusion follows from the premise that eight birds are singing outside my window: “eight” entails “some.” If the resolution were existential with respect to “colleges and universities,” then the Ivy League argument above would be a valid inference. Since it’s not a valid inference, “colleges and universities” must be a generic bare plural.

Second, “colleges and universities” fails the [upward-entailment test](https://plato.stanford.edu/entries/generics/#IsolGeneInte) for existential uses of bare plurals. Consider the sentence, “Lima beans are on my plate.” This sentence expresses an existential statement that is true just in case there are some lima beans on my plate. One test of this is that it entails the more general sentence, “Beans are on my plate.” Now consider the sentence, “Colleges and universities ought not consider the SAT.” (To isolate “colleges and universities,” I’ve eliminated the other bare plurals in the resolution; it cannot plausibly be generic in the isolated case but existential in the resolution.) This sentence does not entail the more general statement that educational institutions ought not consider the SAT. This shows that “colleges and universities” is generic, because it fails the upward-entailment test for existential bare plurals.

Third, “colleges and universities” fails the adverb of quantification test for existential bare plurals. Consider the sentence, “Dogs are barking outside my window.” This sentence expresses an existential statement that is true just in case there are some dogs barking outside my window. One test of this appeals to the drastic change of meaning caused by inserting any adverb of quantification (e.g., always, sometimes, generally, often, seldom, never, ever). You cannot add any such adverb into the sentence without drastically changing its meaning. To apply this test to the resolution, let’s again isolate the bare plural subject: “Colleges and universities ought not consider the SAT.” Adding generally (“Colleges and universitiesz generally ought not consider the SAT”) or ever (“Colleges and universities ought not ever consider the SAT”) result in comparatively minor changes of meaning. (Note that this test doesn’t require there to be no change of meaning and doesn’t have to work for every adverb of quantification.) This strongly suggests what we already know: that “colleges and universities” is generic rather than existential in the resolution.

#### Violation: They spec \_\_\_\_\_\_

#### Standards:

#### [1] precision – the counter-interp justifies them arbitrarily doing away with random words in the resolution which decks negative ground and preparation because the aff is no longer bounded by the resolution. Independent voter for jurisdiction – the judge doesn’t have the jurisdiction to vote aff if there wasn’t a legitimate aff.

#### [2] Limits and ground – their model allows affs to defend anything from Covid vaccines to HIV drugs to Insulin— there's no universal DA since each has different functions and political implications — that explodes neg prep and leads to random medicine of the week affs which makes cutting stable neg links impossible — limits key to reciprocal engagement since they create a caselist for neg prep and it takes out ground like DAs to certain medicines which are some of the few neg generics when affs spec medicines.

#### [3] TVA solves – you could’ve read your plan as an advantage under a whole res advocacy.

#### Fairness – debate is a competitive activity that requires fairness for objective evaluation. Outweighs because it’s the only intrinsic part of debate – all other rules can be debated over but rely on some conception of fairness to be justified.

#### Drop the debater – a] deter future abuse and b] set better norms for debate.

#### 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

## 2

#### Interpretation: Reduce means unconditional and permanent – the aff is a suspension.

Reynolds 59 – Judge (In the Matter of Doris A. Montesani, Petitioner, v. Arthur Levitt, as Comptroller of the State of New York, et al., Respondents [NO NUMBER IN ORIGINAL] Supreme Court of New York, Appellate Division, Third Department 9 A.D.2d 51; 189 N.Y.S.2d 695; 1959 N.Y. App. Div. LEXIS 7391 August 13, 1959, lexis)

Section 83's counterpart with regard to nondisability pensioners, section 84, prescribes a reduction only if the pensioner should again take a public job. The disability pensioner is penalized if he takes any type of employment. The reason for the difference, of course, is that in one case the only reason pension benefits are available is because the pensioner is considered incapable of gainful employment, while in the other he has fully completed his "tour" and is considered as having earned his reward with almost no strings attached. It would be manifestly unfair to the ordinary retiree to accord the disability retiree the benefits of the System to which they both belong when the latter is otherwise capable of earning a living and had not fulfilled his service obligation. If it were to be held that withholdings under section 83 were payable whenever the pensioner died or stopped his other employment the whole purpose of the provision would be defeated, i.e., the System might just as well have continued payments during the other employment since it must later pay it anyway.  [\*\*\*13]  The section says "reduced", does not say that monthly payments shall be temporarily suspended; it says that the pension itself shall be reduced. The plain dictionary meaning of the word is to diminish, lower or degrade. The word "reduce" seems adequately to indicate permanency.

#### Reduce is distinct from simply changing

Finch 73 (James A. Finch Jr., judge. “State ex rel. Cason v. Bond, 495 S.W.2d 385,” Supreme Court of Missouri, 1973)

"\* \* \* The fact that this section relates solely to appropriation bills, in conjunction with the word 'reduce,' indicates clearly that the expression 'items or parts of items' refers to separable fiscal units. They are appropriations of sums of money. Power is conferred upon the Governor to reduce a sum of money appropriated, or to disapprove the appropriation entirely. No power is conferred to change the terms of an appropriation except by reducing the amount thereof. Words or phrases are not 'items or parts of items.' This principle applies to the condition [\*\*14] attached to the appropriation now in question. That condition is not an item or a part of an item. The veto power conferred upon the Governor was designed to enable him to recommend the striking out or reduction of any item or part of an item. In the present instance His Excellency the Governor did not undertake to veto the appropriation of $100,000 made by item 101, or any part of it, nor to reduce that amount or any part of it apportioned to a specific purpose. He sought, rather, as shown by his message, to enlarge the appropriation made by the General Court by throwing the $100,000 into a common fund to be used for any one of several different purposes. We are of opinion that the power conferred upon him by said article 63 does not extend to the removal of restrictions imposed upon the use of the items appropriated."

#### Violation: they only change the time period

#### Vote neg:

#### 1] Limits and ground– their model allows affs to defend anything from pandemics to Biden’s presidency— cross apply the offense above

#### 2] Precision o/w – cross apply the offense above

#### 3] TVA – defend the advantage to a whole rez timeframe. We don’t prevent new FWs, mechanisms, or advantages. PICs don’t solve – our model allows you to specify countries and medicines.

## 3

#### Behold the image of the disgusting disabled child, which causes one to wince in the face of egoistic empathy. This is self-reflection, a process constitutive of the psyche that results in the disability drive, the culmination of primary pity where the non-disabled subject embodies itself in the position of the disabled object, and secondary pity, which portrays the ego’s overcompensation to regain its position and pushes a desire from lack for the eradication of disability.

**Mollow 15** Anna (2015): The Disability Drive, A dissertation submitted in partial satisfaction of the requirements for the degree of Doctor of Philosophy in English in the Graduate Division of the University of California, Berkeley Committee in charge: Professor Kent Puckett, Chair Professor Celeste G. Langan Professor Melinda Y. Chen Spring 2015 <https://digitalassets.lib.berkeley.edu/etd/ucb/text/Mollow_berkeley_0028E_15181.pdf> SJCP//JG

A Tale of Two Pities “Piss on pity,” declares a well-known disability activist bumper sticker. A more polite companion to this tag, the slogan “No pity” is a rallying cry of the disability rights movement.119 For disability studies, a field that since its inception has vigorously resisted the imposition of pity upon disabled people, Tiny Tim is anathema. Understandably so: every year, the image of Tiny Tim is used to drum up pity for disabled people; the widespread circulation of this affect, disability scholars have compellingly argued, does not alleviate the social barriers that we face but instead reinforces our oppression. Indispensable as this disability studies analysis is, it leaves some important questions about pity unanswered. For example: if, as is commonly said, “No one wants to be pitied,” then why is this so? And also, if nobody wants to be pitied, who, if anyone, wants to feel pity? At first glance, the answer to the latter question might seem to be “everyone.” Certainly, multitudes of moviegoers appear to enjoy our culture’s annual recitations of Tiny Tim’s pity inducing tale. If it can be fun to perform pity, perhaps this is because pity gives a boost to the ego of the pitying person. “You are broken, and I am whole,” the pitier says to the one who is pitied. “I look down on you because you suffer.” Naturally, disabled people resist performing this service for the nondisabled. “Spare us your pity,” we say, because pity is felt to be demeaning. 73 Yet an incoherence structures this familiar account of pity: if pity fortifies the ego of the subject who feels it, then why do people so often resist feeling pity? Some folks get pissed when they are prodded to pity. “Your appeals to pity won’t work,” they say. “I have no pity for you.” This is the attitude that Scrooge takes toward Tiny Tim. It’s also the stance that Edelman invites queers to take in relation to the Child—and not only to the Child per se, but also to anyone who calls for a performance of pity. Edelman argues that compassion (which, of course, is a close relative of pity) is fundamentally narcissistic (73). When we call ourselves compassionate, we think we’re feeling for the other; but, Edelman contends, we’re really only feeling for ourselves (83). That is, compassion involves projecting one’s own ego onto the object of one’s compassion. In this schema, the pitied person is used as a vehicle for the pitier to feel sorry for his or her own self. But in calling compassion a cover for narcissism, Edelman may inadvertently point to a connection between compassion and the drive. Freud’s theorization of narcissism, which is a precursor to his idea of the death drive, suggests that although some forms of narcissism can bolster the ego, other forms can do just the opposite. “On Narcissism” posits a distinction between what Freud calls “primary” and “secondary” narcissism; this distinction provides the basis for a contrast that I wish to draw between what could be called primary and secondary pity. To elucidate these two pities, let us look at the tale that Freud tells about two narcissisms. The story begins, as many Freudian narratives do, with the image of a child at its mother’s breast. Freud gives the name “primary narcissism” to the perfect autoerotic pleasure in which the child luxuriates. This pleasure takes place in the absence of a stable self, as the child does not yet conceive of itself as a distinct entity, undifferentiated from its external environment (87-88). It’s the best of times, but it can’t last: the child’s primary narcissism, Freud recounts, is exposed to numerous “disturbances,” ranging from the castration complex (in which boys fear losing the penis and girls, Freud assumes, wish that they had one) to parental discipline and criticism.120 But still, we keep seeking that lost, best time: because humans are “incapable of giving up a satisfaction” that we have “once enjoyed,” we continually try to return to the primary narcissism of childhood. We do this by engaging in secondary narcissism. All the familiar attitudes and behaviors that one tends to think of when one disparages someone as “narcissistic” fall into the category of what Freud defined as secondary narcissism: the puffed up ego, the feeling of superiority over others. But even secondary narcissism, with its many patent problems, does not only aim to aggrandize the ego. The impetus of secondary narcissism, after all, is to return to a state in which the ego as such does not exist. The child’s autoerotic enjoyment at its mother’s breast is pleasurable in part because the child is not yet a subject. As with the death drive’s impulsion to return to “an earlier state of things,” secondary narcissism draws the subject back toward a prior time when the ego did not exist (Beyond 45). Yet if primary narcissism is looked back upon as the best of times, it must, from the vantage point of a fully constituted ego, appear as the worst of times, too. To be drawn back to primary narcissism would be to imagine the abolition of one’s self. For this reason, even though secondary narcissism may threaten to break down the ego, it also entails a defense against the threat/pleasure of that breaking down. Much as the differentiation between the inseparable processes of primary and secondary narcissism rests on a distinction between building up and breaking down the ego, a similar heuristic distinction gives structure to my concepts of primary and secondary pity. To be clear, pity and narcissism are not the same thing: if narcissism can be understood as love of the self, pity involves a complex affective reaction to the suffering of someone else. Primary pity entails a response to the image of another person succumbing to what I have termed the “tragedy of disability.”121 Primary pity arises when one witnesses a fall of the self, a collapse of the ego; such falling is at once painful and pleasurable to observe. In other words, primary pity could be described as a vicarious experience of the tragedy of disability. A great deal of the pain and pleasure of primary pity center on questions about what, or who, this fallen self is. When most people think about pity, we refer to an affect in which, to adopt Edelman’s phrase, we purport to “feel for the other.” But as with primary narcissism, in which the self has not yet been constituted, and therefore cannot be said to enter into intersubjective relations with an “other,” primary pity entails a mixing up of self and other such that the ego, in becoming permeable to pain that may properly belong to “someone else,” is profoundly threatened in its integrity. Primary pity is that intense pain-pleasure complex that is provoked by the image of a suffering other who, it seems momentarily, both is and is not one’s self. This affective response can feel unbearable, as seen in Siebers’s formulation: one “cannot bear to look…but also cannot bear not to look.” Primary pity is difficult to bear because it involves a drive toward disability (one cannot bear not to look), which menaces the ego’s investments in health, pleasure, and control—because to contemplate another person’s suffering is to confront the question, “Could this happen to me?” Such a prospect, although frightening, may also be compelling; in this way, primary pity replicates the self-rupturing aspects of sexuality. Indeed, the unbearability of primary pity reflects its coextensiveness with sexuality. Sex, or the Unbearable, a book coauthored by Edelman and by Lauren Berlant, argues that sex “unleashes unbearable contradictions that we nonetheless struggle to bear” (back cover). This claim accords with Freud’s account of sexuality as a “pleasurable” “unpleasure” that the ego can never fully master or control (Three 49,75). As Leo Bersani puts it in his reading of Freud, “the pleasurable unpleasurable tension of sexual enjoyment occurs when the body’s „normal‟ range of sensation is exceeded, and when the organization of the self is momentarily disturbed”; thus, “sexuality would be that which is intolerable to the structured self” (Freudian 38). Primary pity is also intolerable to the structured self, because it entails a fascination with the fantasy of a self in a state of disintegration or disablement. Secondary pity is something else, although it cannot wholly be differentiated from primary pity. Secondary pity attempts to heal primary pity’s self-rupturing effects by converting primary pity into a feeling that is bearable. As with secondary narcissism, secondary pity involves both an attempt to get back to that ego-shattering state of painfully pleasurable primary pity, and at the same time to defend against that threat to the ego by aggrandizing oneself at someone else’s expense. Secondary pity refers to all those ego-bolstering behaviors that most people think of when they talk about pity. Disabled people are all too familiar with these behaviors: the saccharin sympathy, the telethon rituals of “conspicuous contribution,” the insistence that “they” (i.e., nondisabled people) could never endure such suffering. More commonly known in our culture simply as “pity,” secondary pity encompasses our culture’s most clichéd reactions to disability: charity, tears, and calls for a cure. Correlatives of these commonplace manifestations of secondary pity are the obligatory claims that disabled people’s suffering is “inspiring.” Indeed, the speed with which conventional cultural representations of disability segue from overt expressions of pity to celebrations of “the triumph of the human spirit” highlights the ways in which secondary pity, as a defense against primary pity’s incursions, reinforces the ego’s fantasy of sovereignty. Secondary pity, in other words, can be seen as a variation of secondary narcissism: these affects enlarge the ego of the pitier or the narcissist at the expense of someone else. But primary pity is not the same as either primary narcissism, secondary narcissism, or secondary pity. Unlike primary narcissism, a feeling that emerges out of a relation to the world in which notions of “self” and “other” do not obtain, primary pity does depend upon the constructs of self and other, although these constructions are unstable and are continually threatening to come undone. Primary pity can thus be envisioned as a threshold category occupying a liminal position between the total denial of the other that is inherent to primary narcissism and the rigid structure of (superior) self and (inferior) other that constitutes secondary narcissism and secondary pity. My concept of primary versus secondary pity also differs from Freud’s primarysecondary narcissism distinction at the level of genealogy. Like Freud’s account of primary and secondary narcissisms, my model of primary and secondary pities involves a temporal transition; but whereas Freud imagines the movement from primary to secondary narcissism as a passage from an earlier to a later stage of an individual’s development, the temporal shift from primary to secondary pity happens much more quickly than this. It happens in an instant: that moment in which we feel primary pity and then, almost before we can blink, deny that we feel or have felt it. The denial is understandable: who wants to admit that one gets pleasure from the sight of another person’s suffering—or, to make matters worse, that this pleasure derives in part from the specter of disability’s transferability, the possibility that this suffering could be—and, fantasmatically, perhaps already is—an image of one‟s own self undone? Indeed, the model of primary pity that I have been constructing may sound a bit too close to sadism for some people’s liking. Pity does come close to sadism, and at the same time, to masochism, which Freud theorizes as sadism’s obverse. In “Mourning and Melancholia,” an essay that can be read as a sequel to “On Narcissism,” Freud approaches a distinction between primary and secondary masochism, which accords with my primary-secondary pity heuristic.122 If the story that I traced in “On Narcissism” could be summarized as “child gets breast; child loses breast; child gets breast back, albeit in a secondary, adulterated form,” the tale that Freud tells about masochism takes much the same form. In this story, subject loves object; subject loses object; and subject tries to get object back by becoming object, that is, by identifying with the object in such a way that object starts to seem—and perhaps in some ways is—part of subject’s self. This last phase is a dysfunctional and disabling form of identification, Freud makes clear. Subject is still angry at object for having left it, and it takes out that anger on the object that is now part of itself. This is the reason that people suffering from melancholia are so hard on themselves, Freud says; the “diminution in…self-regard” that typically accompanies melancholia results from the subject’s attacks on the loved-and-lost object that the subject has incorporated into its ego (“Mourning” 246). Freud had not wanted there to be such a thing as primary masochism; for a long time, he had insisted that sadism, or “aggression,” was the primary instinct, and that masochism was only a turning-inward of this originary aggression. But in “Mourning and Melancholia,” although Freud does not yet use the term “primary masochism,” he nonetheless gets at this concept. The problem of suicide, Freud notes in this essay, raises the possibility that the ego “can treat itself as an object” that it wants to destroy (252). When it comes to such an extreme act as suicide, the possibility of carrying “such a purpose through to execution” must, Freud surmises, involve more than a sadistic wish to punish others. Perhaps, then, there is an innate desire to destroy one’s own self, Freud hypothesizes. If so, this self would not be a single thing: it would be “me” and at the same time, the lost object whose image “I” have internalized. Freud’s notion of a primary masochism is tied very closely to his conceptualization of the drive. Beyond the Pleasure Principle, the text in which Freud first used the term “death drive,” was published three years after “Mourning and Melancholia.” In the later text, Freud’s speculations about the death drive lead him to acknowledge that “there might be such a thing as primary masochism” (66). After all, Freud points out, the idea that either sadism or masochism definitively takes precedence over the other does not ultimately make much sense, as “there is no difference in principle between an instinct turning from the object to the ego and its turning from the ego to an object” (66). If sadism and masochism are ultimately indistinguishable obverses of each other, then pity, in both its primary and its secondary forms, would have to be both sadistic and masochistic. This is a deeply troubling possibility, but I suggest that trying to overcome pity will only make matters worse. There are many ways of trying to overcome primary pity, and each one ultimately aggravates the violence of primary pity. One way is the “pitiless” refusal of compassion that Edelman advocates (70). Another is the disability activist “No pity” injunction. A third example is secondary pity, as in the query, commonly addressed to disabled people, “Have you ever thought of killing yourself?”123 In this question, disabled people correctly hear the wish, “I’d like to kill you.” Indeed, primary pity is so unsettling that our culture has been driven to “mercifully” kill people in the name of secondary pity. We have also been driven to lock people in institutions, to let them languish on the streets, to stare, to punish, and to sentimentalize—all, I would suggest, in the interest of not owning, not naming, not acknowledging that self-shattering, ego-dissolving, instantaneous and intolerable moment of primary pity. Because primary pity is tied up with the disability drive, it must, like the drive itself, be regarded as unrepresentable. However, I will quote at length from a passage of writing that comes close not only to representing primary pity but also perhaps to producing it. In his memoir, One More Theory About Happiness, Paul Guest describes an experience that he had in the hospital after sustaining a spinal cord injury when he was twelve years old: My stomach still roiled and it was hard to keep anything down. Late one night, a doctor came to my bedside, leaning over me, his hands knotted together. He seemed vexed, not quite ready to say anything. Used to the look, I waited. And then he began. “The acids in your stomach, Paul, because of everything you’re going through, it’s like your body, everything about it, is upset. That’s why you feel so nauseous all the time. We’re going to treat that by putting a tube into your nose and down into your stomach, so we can give you medicine, OK?” When he walked away, I felt something begin to give way inside me. Up until then, I’d faced more misery and indignity than I would have thought possible. I lay there, numb and sick in a diaper, helpless. It was too much to bear, too frightening, a last invasion I could experience and not break, utterly. When he returned with nurses, I was already sobbing. Anyone so limited could hardly fight, but I tried. I tried. The neck collar prevented much movement, and any was dangerous, but I turned my head side to side, just slightly, a pitiful, unacceptable range. Fat tears rolled down my face like marbles. I begged them all, no, no, no, please no. “Hold him, hold him still,” the doctor said. Nurses gripped my head on either side. From a sterile pack, the doctor fished out a long transparent tube and dabbed its head in a clear lubricant. He paused almost as if to warn me but then said nothing. 77 Then the tube entered one nostril, its gauge slight enough to pass through, down my throat and into my stomach. I couldn’t thrash or resist. I could only relent. To the pain, the discomfort, but most distressingly the feeling of powerlessness, of violation. It was in that moment, I think, that the weight of everything which had happened fell upon me, undeniably, and the knowledge of it crushed me. (23-24) “Too much to bear,” Guest writes. The word “unbearable” would indeed be an accurate descriptor of this passage: both the experience of violence that it narrates and also the retelling of that experience produce sensations that, as in Berlant and Edelman’s account of sexuality, one cannot bear but must nonetheless “struggle to bear” (back cover). Guest’s account of a nonconsensual administration of an unwanted medical treatment is especially difficult to bear because it gives the reader no recourse to secondary pity: the passage offers no “lesson” to be learned, no invitation to feel “inspired,” nothing to make one feel in any way okay about what has happened. The medical violence that Guest recounts seems particularly devastating because it is readable as sexual: it takes the form of forced penetration, and it results in a “feeling of powerlessness, of violation” that resonates with experiences recounted by survivors of sexual assault.

#### The affirmative’s politics are tied to a rehabilitative futurism where the signifier of the fantasmatic child is placed forward to eradicate and cure disability – this deems the disabled child a threat and excludes disability from the political. They don’t get to weigh case – if we win their starting point is violent, they don’t get to weigh their end point since we indict the process of how they got there.

**Mollow 2** Anna (2015): The Disability Drive, A dissertation submitted in partial satisfaction of the requirements for the degree of Doctor of Philosophy in English in the Graduate Division of the University of California, Berkeley Committee in charge: Professor Kent Puckett, Chair Professor Celeste G. Langan Professor Melinda Y. Chen Spring 2015 <https://digitalassets.lib.berkeley.edu/etd/ucb/text/Mollow_berkeley_0028E_15181.pdf> SJCP//JG

Elsewhere, I have argued that No Future’s impassioned polemic is one that disability studies might take to heart.109 Indeed, the figure that Edelman calls “the disciplinary image of the “innocent” Child” is inextricable not only from queerness but also from disability (19). For example, the Child is the centerpiece of the telethon, a ritual display of pity that demeans disabled people. When Jerry Lewis counters disability activists’ objections to his assertion that a disabled person is “half a person,” he insists that he is only fighting for the Children: “Please, I’m begging for survival. I want my kids alive,” he implores (in Johnson, Too Late 53, 58). If the Child makes an excellent alibi for ableism, perhaps this is because, as Edelman points out, the idea of not fighting for this figure is unthinkable. Thus, when Harriet McBryde Johnson hands out leaflets protesting the Muscular Dystrophy Association, a confused passerby cannot make sense of what her protest is about. “You’re against Jerry Lewis!” he exclaims (61). The passerby’s surprise is likely informed by a logic similar to that which, in Edelman’s analysis, undergirds the use of the word “choice” by advocates of legal abortion: “Who would, after all, come out for abortion or stand against reproduction, against futurity, and so against life?” (16). Similarly, why would anyone come out for disability, and so against the Child who, without a cure, might never walk, might never lead a normal life, might not even have a future at all? The logic of the telethon, in other words, relies on an ideology that might be defined as “rehabilitative futurism,” a term that I coin to overlap and intersect with Edelman’s notion of “reproductive futurism.” If, as Edelman maintains, the future is envisaged in terms of a fantasmatic “Child,” then the survival of this future-figured-as-Child is threatened by both queerness and disability. Futurity is habitually imagined in terms that fantasize the eradication of disability: a recovery of a “crippled” or “hobbled” economy, a cure for society’s ills, an end to suffering and disease. Eugenic ideologies are also grounded in both reproductive and rehabilitative futurism: procreation by the fit and elimination of the disabled, eugenicists promised, would bring forth a better future.110

#### Modern biopolitics proliferates discourses of bodily and affective imperfection to justify extermination of difference – the aff literally says opiod users will end the world and must be cured – that justifies endless suppression of disability in the name of progress.

Mitchell 15 (David T Mitchell, “The Biopolitics of Disability: Neoliberalism, Ablenationalism, and Peripheral Embodiment”, University of Michigan Press, p. 40-41)

It is in this exposé of the fragility of neoliberal governance tactics carried out by a diffuse network of skilled and semiskilled laborers in the professions of normalization (assistive technology, medicine, social work, psychology, psychiatry, and rehabilitative therapies) that disabled people assist in realizing all bodies supply the raw material upon which contemporary biopolitical systems work their productive power. To secure this point we might think of the way commercial media are dominated by selling contemporary audiences products through the heightening of awareness of proliferating zones of bodily and affective imperfection: incontinence, erectile dysfunction, migraine headaches, back pain, menstrual cramp relief, depression, acid reflux, insufficient arch support, vaginal dryness, and uterine pain during intercourse are among those conditions now referenced in a proliferating array of body ailments. Such embodied insufficiencies multiply across every surface, crevice, and cavity of the personal interior and exterior spaces of embodiment. Increasingly we come to knowledge of ourselves as embodied beings within neoliberal biopolitics primarily through understanding our bodies as containing a **matrix of referenced pathologies** deviating from narrow (and, ultimately, fictitious) norms of health. Foucault’s dissertation advisor, Georges Canguilhem, argued in The Normal and the Pathological that we only come to know embodiment through “the experience of bodily breakdown,” yet the era of biopolitics has made such ways of knowing increasingly diffuse and unmoored from modernism’s normal/pathological binary (209). Neoliberal biopolitics references all bodies as deficient and in need of product supplementations to treat the in-built inferiority within, a system of bodily referencing shorn of environmental causes. Contemporary bodies find themselves increasingly colonized by “Big Pharma” through a process that segments body parts into insufficiencies, ailments, and shortcomings in need of chemical and surgical interventions (Rose, Politics of Life Itself 219). The historical shift from liberalism’s carceral restraints on deviant bodies to neoliberalism’s referencing of deficiencies across all bodies provides a key transition in historically distinct approaches to body management. Whereas liberalism recognized some bodies as normatively capacitated for a competitive labor market and other bodies as nonproductive due to their incapacitation (their defining, in-built impairment effects), neoliberalism tends to produce all bodies as languishing through excessive demands of productivity, exacerbated social anxieties, and excessive exposures to toxic environments in order to exploit new treatment markets. Whereas a prior era celebrated autonomous bodies rich in capacity, the era of biopolitics turns the corner and proliferates pathologies as opportunities for new **product dissemination** opportunities (that is, forms of addiction now promoted as body-altering solutions). **Incapacitated bodies are now the standard** to an increasing degree, and for-profit healthcare corporations recognize them as rich veins of data for ailments largely social in their making but often realized at the level of materiality. Such interventions are delivered through the acquisition of over-the counter medications and other forms of body-alleviating consumption. This shift to contemporary bodies as incapacitated rather than “autonomously” independent marks a massive shift in the operation of a normalizing contemporary marketplace. Under neoliberalism the body is targeted as inherently lacking, and the pharmaceutical and medical industries promise not to remove but mask social symptoms as individualized adjustments to states of a universally beleaguered embodiment. Nowhere in this marketing scheme is there a direct address of toxic environments, workplaces, or oppressive living arrangements as the appropriate objects of critique or suspect sources of bodily debility. This loss of the exploitation of environment as causal agent brings full circle a shift in emphasis from the early eugenics period that identified urbanity as the origins of modern maladjustment and “pastoral cure” (removal to rural institutions to reestablish one’s connection with nature for the rejuvenation of ailing spirits) as the appropriate intervention. The move from liberal to neoliberal disability, then, becomes identifiable as an effect of historical forces that shift from fetishizations of full capacity to fetishizations of minor, yet prolific, incapacitations (that which Puar terms “debility” [“Coda” 149]). This ebb and flow of ideas of dysfunctional embodiment reveals the outlines of an artificially tailored infrastructure that excludes and then includes as the terms for **retrofitting bodies to a new market-driven formula.** Incapacity transforms into “the new normal” and, in this process, **we lose an ability to recognize alternative maps for living evolved within alternative crip/queer contexts.** Normalization drives the matter of corporeality underground, so to speak, in the press to flatten differences into the multicultural mosaic that continues to champion normative modes of existence while seeming to become more flexible and therefore in line with key facets of neoliberal adaptability.

#### The starting point of the 1AC is epistemically flawed and an independent link – fiat is illusory and anything that doesn’t begin from the question of disability allows for ableism to infiltrate modes of thought which means we’re an epistemic prerequisite. Thus, the role of the ballot is to vote for the debater who best methodologically challenges ableism.

**Campbell 13** Fiona Kumari (2013): Problematizing Vulnerability: Engaging Studies in Ableism and Disability Jurisprudence, Fiona Kumari Campbell undertakes research in Studies in Ableism, coloniality, disability studies as well as explorations about Buddhist formations of disability. Trained in sociology, theology and legal studies; she is interested in ways that law, new technologies and the governance of marginal populations produces understandings of the productive citizen, normative bodies, ideas of periphery and ways that ablement privileges and entitles certain groups in society. Campbell is the author of Contours of Ableism: The Production of Disability and Abledness (Palgrave, 2009) and numerous other journal articles and book chapters. SJCP//JG

Studies in Ableism What is meant by the concept of ableism? The literature suggests that the term is often used fluidly with limited definitional or conceptual specificity. The work of Carlson (2001)5 and Campbell (2001) represented a turning point in bringing attention to this new site of subordination not just in terms of disablement but also ableism’s application to other devalued groups. Ableism is deeply seeded at the level of knowledge systems of life, personhood and liveability. Ableism is not just a matter of ignorance or negative attitudes towards disabled people; it is a schema of perfection, a deep way of thinking about bodies, wholeness and permeability.6 As such integrating ableism into social research and advocacy strategies represents a significant challenge to practice as ableism moves beyond the more familiar territory of social inclusion and usual indices of exclusion to the very divisions of life. Bringing together the study of existence and knowledge systems, ableism is difficult to pin down. Ableism is a set of processes and practices that arise and decline through sequences of causal convergences influenced by the elements of time, space, bodily inflections and circumstance. Ability and the corresponding notion of ableism are intertwined. Compulsory ablebodiedness is implicated in the very foundations of social theory, therapeutic jurisprudence, advocacy, medicine and law; or in the mappings of human anatomy. Summarised by Campbell (2001, 44) Ableism refers to; …A network of beliefs processes and practices that produces a particular kind of self and body (the bodily standard) that is projected as the perfect, speciestypical and therefore essential and fully human. Disability then is cast as a diminished state of being human. Writing today (2013) I add an addition to this definition: ‘The ableist bodily configuration is immutable, permanent and laden with qualities of perfectionism or the enhancement imperative orientated towards a self-contained improvability’. Sentiency applies to not just the human but the ‘animal’ world. As a category to differentiate the normal from the pathological, the concept of abledness is predicated on some preexisting notion about the nature of typical species functioning that is beyond culture and historical context. Ableism does not just stop at propagating what is typical for each species. An ableist imaginary tells us what a healthy body means – a normal mind, the pace, the tenor of thinking and the kinds of emotions and affect that are suitable to express. Of course these ‘fictional’ characteristics then are promoted as a natural ideal. This abled imaginary relies upon the existence of an unacknowledged imagined shared community of able-bodied/minded people held together by a common ableist world view that asserts the preferability and compulsoriness of the norms of ableism. Such ableist schemas erase differences in the ways humans express our emotions, use our thinking and bodies in different cultures and in different situations. This in turn enacts bodily Otherness rendered sometimes as the ‘disabled’, ‘perverted’ or ‘abnormal body’, clearly demarcating the boundaries of normal and pathological. A critical feature of an ableist orientation is a belief that impairment or disability is inherently negative and at its essence is a form of harm in need of improvement, cure or indeed eradication.

#### Vote negative to endorse an unwavering pessimism and radical failure – we reject the political and notions of futurism in exchange for an affirmation of disability’s abjection as something beautiful.

**Selck 16** Michael (2016): Crip Pessimism: The Language of Dis/ability and the Culture that Isn't, Southern Illinois University Carbondale, SJCP//JG

The disabled are dying and with them dis/abled culture is being eradicated. In the time between formulating this project and its completion already too many disabled souls have been taken from this world, including pivotal disability studies influences for this research. I barely had enough time to mourn the loss of disability advocate and inspiration porn critic Stella Young before grieving the loss of disability studies exemplar Tobin Siebers. Attached to the grief I feel as a result of the fading disability studies community is the perpetual grief I harbor since my disabled Father’s suicide and in turn the grief concomitant to the claiming of a disabled identity. I choose to start out this project with grief because it communicates the tenor of this research; this is not the disability studies project of inspiration or utopia. My entry point to the disability studies dialogue is riddled with grief, anger, and pain and it is as such that this project plots a course of disability research that attempts to make a space free from the ideological constraints of optimism. The language surrounding dis/ability is highly political. Entire words, phrases, and identities are stretched between, in, and out of the nexus of dis/ability. The choice, for instance, to include a backslash in the word dis/ability represents for Goodley (2014) a desire to delineate and expand each of the categories in the face of global neoliberalism. My initial research inquired about the impact of dis/abled terms and phrases. I went to interrogate rhetoric like “special education”, “handicapable”, and one of the most glaringly overused insults in the American education system “retard”. The scholarship I was coming up with was plentiful but was for the most part located entirely outside of intercultural communication programs like the one I was attending. For the most part the few and far between intercultural communication projects about dis/ability I was able to locate were without modal complexity and didn’t bear semblance to so many of my own experiences. I was beginning to notice a layer of optimism that has been communicatively imprinted upon the negotiation of dis/abled identity. The angst started to manifest as I questioned if I was in the correct field or if dis/ability even was ‘cultural’. I felt a very real cultural erasure of dis/ability in academia and ultimately that glaring lack of consideration is what pushed me to performance studies. I first worked to close the apparent research gap by crafting a collaborative performance titled Under the Mantle (UTM), which put dis/ability, communication scholarship, and pessimist philosophy on stage. The larger purpose of this research report is to antagonize the erasure of dis/ability from communication studies by autoethnographically analyzing the crip-pessimist performance art project Under The Mantle. This research report will first detail the components of the theoretical work that was drawn on to create UTM. Next I offer a literature review to demonstrate the combination of optimism and neglect dis/ability has undergone in intercultural communication models. Following that section I mark my shift to performance methods as I explain how narrative autoethnography can illuminate cultural misconceptions regarding the dis/abled. In the last sections of this report I offer a textual analysis of the performance UTM and analyze three significant arguments of the instillation before concluding. Contextualizing Critical Dis/Ability Theory Often used interchangeably, critical disability theory (CDT) and critical disability studies (CDS) contest dis/ablism (Goodley, 2011, 2014; Devlin & Pothier, 2006; Hosking, 2008). There are several unique additions made to CDS with every new instantiation. Scholars in European countries and Canada attend to the theory, with United States academics often underrepresented. There are three concurrent themes of CDT that I will synthesize in this section with some dis/ability studies authors claiming there are as many as seven themes of CDT (Hosking, 2008). In the introduction to their edited collection of dis/ability essays, Richard Devlin and Dianne Pothier (2006) present three themes of CDT as, first, to highlight the unequal status to which persons with disabilities are confined; second, to destabilize necessitarian assumptions that reinforce the marginalization of persons with disabilities; and third, to help generate the individual and collective practical agency of persons with disabilities in the struggles for recognition and redistribution. (p. 18, emphasis mine) Already the connections between the CDT and the critical communication paradigm are visible as each respectively forefronts notions of power, privilege, identity, and agency. Outlined in more detail, the first theme of CDT argues that there is systemic micro and macro level discrimination against bodies with disabilities. To some critical communication scholars, this theme might be obvious, but it seldom is when “the resulting exclusion of those who do not fit able-bodied norms may not be noticeable or even intelligible” (Delvin & Pothier, 2006, p. 7). As the bumper sticker on my laptop proudly disclaims, “Not all disabilities are visible,” which necessarily adds a level of nuance and complexity to the way that dis/ability studies attend to the prospect of discrimination and violence. Often times, “social organization according to able-bodied norms is just taken as natural, normal, inevitable, necessary, even progress” (Delvin & Pothier, 2006, p. 7). It might be true that the lack of collaborative work between critical communication studies and dis/ability studies is because neoliberalism is supremely effective at rebranding marginalized oppression as a marker of its progress. The implications of this assertion are dire but essential to the basis of crip-pessimism. Theoretical approaches based in pessimism and skepticism are often necessary to distinguish the instruments of self destruction that have been mistaken for those of self betterment. Thus, a key question remains, what is regarded as progress and to whom does it count? The politics of progress call for the second tenet of CDT, which is a destabilization of neoliberal practices that strip power and agency from bodies with disabilities. Devlin and Pothier (2006) use the language of “anti-necessitarian” (p. 2), which refers to the efficacy of social organizations and an unflinching skepticism of liberalism. For Shildrick and Price (1999), “disabled bodies call into question the ‘giveness’ of the ‘natural body’ and, instead, posit a corporeality that is fluid in its investments and meanings” (p. 1). Anti-necessitarian logics ask questions that remain innocuous to the critical communication paradigm. Can the architectural proliferation of stairs and multiple levels on buildings be attributed to neoliberalism and active disablism? If stairs seem to focus too exclusively on physical impairments, then what about the sensitivity of the building’s lighting, acoustics, and spatiality? Finally, if neoliberalism fights to protect its grand narrative of progress then is the social exclusion of bodies with disabilities necessary for the day-to-day operation of our globalized world? As Donaldson (2002) posits: “theories of gendered, raced, sexed, classed, and disabled bodies offer us critical languages for ‘denaturalising’ impairment’” (p. 112) at the level of the subjective and inter-subjective. The third theme of CDT is to attend to the agency of bodies with disabilities in the struggle for recognition. One key element of extending agency to the disabled is the use of social experience. Experience is subjective “but experience remains intimately connected to political and social existence, and therefore individuals and societies are capable of learning from their experiences” (Siebers, 2008, p. 82). Though absolutely necessary, it is not enough to write treatises on the oppression of the disabled over time. Academics, theorists, intercultural trainers, and storytellers alike should be aware of the constant risks of representation. Representation and context are at the core of critical disability studies. The notion of agency is as unstable as the notions of dis/ability. There is no one-size-fits-all human rights based approach that will be suitable to address all disabled experiences, as the theoretical call for crip-pessimism will remind us. Instead of a universal abstract Rawlsian concept of social justice, CDS “attend(s) to the relational components of dis/ablism” (Goodley, 2011, p. 159). By a Rawlsian concept of social justice I mean a model that relies on distributive justice with utopist equality at its core. Where utopist equality projects highlight human sameness to the point of purity. CDT unavoidably invites a discussion about difference into the folds as postmodern and post-structural thinkers position the self as defined constantly in relation to others. Therein lies the difference between an equality model and a justice model of social identity. Often in the attempt to open up spaces for reconsidering self and other, CDS celebrates disability as a positive identity marker. This essay offers a strong argument of caution that the inclusion of CDS in critical communication studies might rely too heavily on celebrations of disabled identity. Nothing better demonstrates that reliance on celebrating identity than the myriad language choices used to describe a disabled identity including: differently-abled, special needs, person with disability, disabled person, temporarily able-bodied, and others. Often, able- bodied audiences have a tendency to sensationalize the presence of disability in a space that has not traditionally welcomed it. Examples of this are highlighted by the increasingly popular discussion of ‘inspiration porn’ (Young, 2014) and Hollywood’s representation of disability. The tendency is to inspirationalize the disabled for achieving tasks that would not be celebrated if they were accomplished by an unimpaired body. Crossing the street, showing up on time, entering a building by oneself are all tasks profoundly routine to the non-disabled and yet simultaneously cherished as markers of progress for the disabled. Philosophical pessimism is articulated next as a way to temper the risk of sensationalizing dis/ability. The theories ultimately fuse together like orchids and wasps to generate the larger theme of crip-pessimism. Philosophical Pessimism Throughout the 19th century pessimism was one of the most popular intellectual and philosophical strains, crossing countries and continents. Authors such as Rousseau, Leopardi, Schopenhauer, and Nietzsche overwhelmingly created and lead the spirit of pessimism. Contemporarily however, the word ‘pessimism’ is pejorative and describes a body’s emotional discontent rather than intellectual engagement with the world. Dienstag (2009) writes, “Since pessimism is perceived more as a disposition than as a theory, pessimists are seen primarily as dissenters from whatever the prevailing consensus of their time happens to be, rather than as constituting a continuous alternative” (p. 3). Power is responsible for ontological shifts, and during shifts some populations benefit while others are harmed. The turn in thinking about pessimism from an intellectual position to an emotional state has been particularly gratuitous for bodies with disabilities. I come to pessimism because of my experience with disability. My anxiety disorder comes with an exteriority of anti-social behavior that has branded me pessimistic. The concern for my anxiety in public situations is often commented on as overly critical, negative, narcissistic, and most often pessimistic. I experience an anxious state of becoming different, and after years of failing to rehabilitate my sameness to able-bodied standards, I have come to a comfort with pessimism. I choose to include pessimism as a theoretical crutch to avoid communication studies’ sensationalism of disability. I imagine that when critical communication studies does bridge the dis/ability research gap that it might, at least initially, extend some neoliberal logics at the expense of CDS. This might manifest by scholars simply asserting disabled personhood where it does not institutionally, culturally, or individually exist. I find that CDT and philosophical pessimism combine in unique and valuable ways, particularly around tensions of personhood, abstract ideal humanism, and neoliberalism. Neoliberalism should be understood as “the superiority of individualized, market-based competition over other modes of organization. This basic principle is the hallmark of neo-liberal thought— one with old roots that lay partly in Anglo economics and partly in German schools of liberalism” (Mudge, 2008, p. 706-707). There are four components of pessimism outlined by Joshua Foa Dienstag (2006) in his book Pessimism: Philosophy, Ethic, Spirit that I wish to explore difference through. They are as following that: (1) time is a burden, (2) history is ironic, (3) human existence is absurd, and finally (4) resignation or affirmation. To write about pessimism necessarily involves questions of time, temporality, and history. The development of philosophical pessimism, specifically, the theories regarding the burden of time-consciousness, begins with difference. For the pessimist, the concept of time begets a differentiation between human and animal. Being a dog-owner myself, I have heard the colloquial aphorism that dogs, as all animals, have no concept of time. Pessimists understand time consciousness as a unique, but ultimately loathsome, trait of the human condition. Even in projects that appear to be geared toward sameness there are always unperceived and neglected populations. For example, even the U.S. constitution alleges persons of color were (and still are often) racially subjugated as property instead of considered to be fully human. The notion of difference is at the center of the pessimist’s position on time-consciousness because the philosophy accepts that the conditions of our existence are subject to relentless unpredictable change. “To the pessimists, however, the human condition is existentially unique— its uniqueness consisting precisely in the capacity for time-consciousness” (Dienstag, 2009, p. 20). For the pessimist nothing is ever the same, everything is always different, and to inhabit linear time means that everything in existence is always rushing off into the past. The advent of human time consciousness is also what leads the pessimist to find the course of history to be ironic. History is ironic for the pessimist because progress is always related to a greater set of unperceived consequences. As suggested above, philosophical pessimism acknowledges that change occurs; technologies develop and improve over time. Pessimists ask if those improvements are related to a greater set of costs that are not immediately recognizable. (Dienstag, 2006, p. 25) Similar to critical disability theory, pessimism interrogates power and privilege. Pessimists rely on the logic of difference to chart consequences. Consequences go unperceived because they occur across populations with disproportionate access to power, populations that are often culturally unintelligible. For instance, the massive boom in mobile technologies like cell phones and laptops has created vast pits of ‘e-waste’ in Africa, surges in child labor, and conflict over rare earth minerals (Vidal, 2013). Pessimists use difference to tease out the distinction between the instruments of suffering and those of betterment. The third philosophical pessimistic position is that human existence is absurd. The absurdity of existence “is illustrated by the persistent mismatch between human purposes and the means available to achieve them: or again, between our desire for happiness and our capacity to encounter or sustain it” (Dienstag, 2006, p. 32). Difference is built upon exanimations of power, which is both fluid and transferable but ultimately permanent. Classical western philosophy has an optimistic pragmatism built into it that posits there must be an answer to our questions. Alternatively, the pessimist embraces uncertainty, ambiguity, and intersubjectivity. Pessimism encourages a sense of comfort around the idea of multiple, coexistent, and perhaps competing histories. Neoliberal optimism is the logic of conflict as materially reconcilable, rather than antagonistically irreconcilable. The fourth and final tenet of pessimism that we are to examine asks what we are to do about our dire human condition. There are multiplicities of rationales that ultimately inform the pessimistic dualism to either resign from life or affirm it entirely. I defer to an existential or Nietzschean pessimism that recognizes suffering is inevitable for two reasons. First, human time-consciousness necessitates an awareness of our impending death. Second, mutually assured value systems will always intersubjectively exist. The choice to affirm life in its entirety is a pessimistic choice. Embracing life as both miserable and beautiful, fleeting and enduring, validates the perpetually fragmented subject seeking a world that exists beyond good and evil and instead just is.

#### No perms: (a) view it as artificially distinct since it’s key to fully flesh out the individual intricacies of both methods and create more concrete proposals (b) justifies infinite aff conditionality – allowings permutations allows infinite new 1AR advocacies which skews 1 mins of the 1NC and destroys neg ground (c) hold the 1AC method by itself since anything else endorses bad scholarship since it justifies severence – justifying both in the aff solves.

## 4

**The term “marijuana” has a racist legacy and some prefer that the drug be referred to as cannabis.**

**Halperin 18** Alex Halperin (Alex Halperin, who writes our regular column 'High Time,' has been covering the cannabis industry for three years. He co-hosts the podcast WeedWeek and lives in Los Angeles. Alex Halperin welcomes your thoughts, questions and concerns about cannabis and cannabis legalization at [high.time@theguardian.com](mailto:high.time@theguardian.com).) “Marijuana: is it time to stop using a word with racist roots?”, *The Guardian,* Jan. 29th, 2018. <https://www.theguardian.com/society/2018/jan/29/marijuana-name-cannabis-racism>

It’s been known as dope, grass, herb, gage, tea, reefer, chronic. But **the most familiar name for the dried buds of the cannabis plant, and one of the few older terms still in use today, is “marijuana”. For the prohibitionists of nearly a century ago, the exotic-sounding word emphasized the drug’s foreignness to white Americans and appealed to the xenophobia of the time. As with other racist memes, a common refrain was that marijuana would lead to miscegenation.** Harry Anslinger, the bureaucrat who led the prohibition effort, is credited as saying back then: “**There are 100,000 total marijuana smokers in the US, and most are Negroes, Hispanics, Filipinos and entertainers. Their Satanic music, jazz and swing result from marijuana use.** This **marijuana causes white women to seek sexual relations with Negroes**, entertainers and any others.” Today “cannabis” and “marijuana” are terms used more or less interchangeably in the industry, but **a vocal contingent prefers the less historically fraught “cannabis”. At a time of intense interest in past injustices, some say “marijuana” is a racist word that should fall out of use.**

**THE AFF’S RESPONSE TO THE OPIOID EPIDEMIC IS PART OF RACIALIZED LOGIC THAT REENFORCES THE DRUG WAR – turns case and comes before case because we deconstruct the logic behind the affirmative policy.**

**Netherland 16** Netherland, Julie (director of the Office of Academic Engagement of the Drug Policy Alliance. She is the editor of Critical Perspectives on Addiction and holds a PhD in sociology from the City University of New York Graduate Center), and Helena Hansen (MD, PhD, is Assistant Professor in the Departments of Anthropology and Psychiatry at New York University, as well as a research scientist at the Nathan Kline Institute of the New York State Office of Mental Health). "White opioids: Pharmaceutical race and the war on drugs that wasn’t." BioSocieties (2016): 1-22.

The US ‘War on Drugs’ has had a profound role in reinforcing racial hierarchies. Drug offenses accounted for two-thirds of the rise in the federal inmate population and more than half of the rise in state prisoners between 1985 and 2000, with more than half of young Black men in large cities in the United States currently under the control of the criminal justice system ([Alexander, 2010](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R2)), and middle aged Black men more likely to have been in prison than in college or the military ([Rich et al, 2011](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R70)). **Although Black Americans are no more likely than Whites to use illicit drugs, they are 6–10 times more likely to be incarcerated for drug offenses** ([Bigg, 2007](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R5); [Goode, 2013](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R42)). [Alexander (2010)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R2), [Wacquant (2009)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R98), [Hart (2013)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R47) and others make the case that **the criminal justice system is, in effect, a new state-sponsored racial caste system**. Meanwhile, **a very different system for responding to the drug use of Whites has emerged. Beginning in the 1990s, rates of prescription opioid misuse** – primarily OxyContin® – **began to rise dramatically, particularly among Whites**. The press reported a suburban and rural White prescription opioid epidemic ([Tough, 2001](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R88); [Ung, 2001a](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R91), [b](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R92)) as prescription drug overdose deaths rose 117 per cent between 1999 and 2012 ([CDC, 2014](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R13)). By 2010, the National Institute on Drug Abuse (NIDA) noted increasing numbers of prescription opioid dependent people turning to heroin as prescription opioids became harder to misuse ([Volkow, 2014](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R96)) because of new prescription monitoring programs and tamper resistant opioid formulations. **Thousands of White addicted people found themselves the center of media and political debates** about how the country should respond to the latest drug crisis. **The public response to White opioids looked markedly different from the response to illicit drug use in inner city Black and Brown neighborhoods**, with policy differentials analogous to the gap between legal penalties for crack as opposed to powder cocaine. **This less examined ‘White drug war’ has carved out a less punitive, clinical realm for Whites where their drug use is decriminalized, treated primarily as a biomedical disease, and where White social privilege is preserved.** This ‘White drug war’ has historical precedents in which predominantly White populations have used social privilege to invoke ‘medical need’ to secure or maintain access to powerful sedatives or stimulants in the mid to late twentieth century (see [Herzberg, 2013](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R49)). But in the case opioids, addiction treatment itself is being selectively pharmaceuticalized in ways that preserve a protected space for White opioid users, while leaving intact a punitive, carceral system as the appropriate response for Black and Brown drug use. **Whiteness is a sociocultural achievement: it is actively maintained through the shoring up of social boundaries distinguishing White and from not White** ([Frankenberg, 1993](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R40); [Allen, 1994](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R3); [Fine et al, 1996](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R38); [Daniels, 1997](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R23); [Wray, 2006](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R100); [Roediger, 2007](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R72); [Twine and Gallagher, 2008](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R90); [Hughey, 2010](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R50)). The seeming inevitability and naturalness of whiteness allows those within the category ‘White’ to be unmarked, to think of themselves as simply human and without race, while those who fall outside the bounds of whiteness are the racialized Other ([Dyer, 1988](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R32)). **Scholars have explored the ways in which whiteness shapes housing (**[**Low, 2009**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R61)**), education (**[**Leonardo, 2009**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R55)**), politics (**[**Feagin, 2012**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R37)**), law (**[**Lopez, 2006**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R59)**), research methods (**[**Zuberi and Bonilla-Silva, 2008**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R101)**) and our understanding of society (**[**Lipsitz, 2006 [1998]**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R58)**;** [**Feagin, 2010**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R36)). Yet, despite almost two decades of research in the field of whiteness studies, **there remains relatively little literature that explores the myriad connections between whiteness and health in the US context** ([Katz Rothman, 2001](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R53); [Daniels and Schulz, 2006](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R24); [Jones, et al, 2008](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R51); [Daniels, 2012](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R25); [Daniels, 2013](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R26)) and only a few studies exploring the issue of whiteness and psychoactive substances ([Steiner and Argothy, 2001](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R86); [Murakawa, 2011](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R64); [Daniels, 2012](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R25); [Linnemann and Wall, 2013](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R57)). In one of the only studies to explicitly look at how **drug policy is used to carve out White spaces exempt from punitive more approaches,** [Lassiter (2015)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R54) takes a historical look at the roots of the White opioid crisis of today. Looking back to marijuana policies of the 1970s, he states: “**exemptions created for white middle-class participants in the underground market-place were not merely epiphenomenal but rather constitutive of the expansion of the carceral state** (p. 127)”. The drug war operates because of a reciprocal relationship between the criminalization of blackness and the decriminalization of whiteness. Lassiter notes that, when the Rockefeller Drug Laws instituted harsh mandatory minimums, White suburban youth found themselves facing significant jail time for low-level marijuana possession. Parents of White suburban youth banded together to create policy changes that exempted marijuana from the Rockefeller Drug Laws, essentially decriminalizing low-level possession in some jurisdictions. This was possible, in part, because of the **racial dynamics and the portrayal of White youth as sympathetic victims of the organized narcotics trade.** The relative paucity of studies, such as Lassiter’s examining the constitutive role of whiteness in the drug war, is remarkable given the wealth of sociocultural research on pharmaceuticals, addiction and race, which has illuminated myriad ways that the biochemical stratification of people of African and Latin American origin has been represented and materially shaped in sites ranging from genetics labs, medical clinics and neighborhoods, to popular media, courtrooms and policy debates (c.f. [Campbell, 2000](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R8); [Courtwright, 2001](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R20); [Fullwiley, 2007](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R41); [Singer, 2008](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R82); [Bourgois and Schonberg, 2009](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R6); [Roberts, 2011](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R71); [Tiger, 2012](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5501419/#R87)).

#### Reps come first – they shape our understandings of the plan, and are key to avoiding serial policy failure. That means they DON’T get to weigh the case

**Crawford 02** Crawford, Neta. [Professor of Political Science, Boston University] *Argument and Change in World Politics*. Cambridge, England: Cambridge University Press, 2002. Cw//az

**Coherent arguments are unlikely to take place unless and until actors, at least on some level, agree on what they are arguing** about. The at least temporary resolution of meta-arguments regarding the nature of the good (the content of prescriptive norms); what is out there, the way we know the world, how we decide between competing beliefs (ontology and epistemology); and the nature of the situation at hand (the proper frame or representation) must occur before specific arguments that could lead to decision and action may take place. Meta-arguments over epistemology and ontology, relatively rare, occur in instances where there is a fundamental clash between belief systems and not simply a debate within a belief system. Such arguments over the nature of the world and how we come to know it are particularly rare in politics though they are more frequent in religion and science. **Meta-arguments over the “good” are contests over what it is good and right to do**, and even how we know the good and the right. They are about the nature of the good, specifically, defining the qualities of “good” so that we know good when we see it and do it. Ethical arguments are about how to do good in a particular situation. **More common are meta-arguments over representations or frame**s about **how we out to understand a particular** situation. Sometimes actors agree on how they see a situation. More often there are different possible interpretations. Thomas Homer-Dixon and Roger Karapin suggest, “**Argument and debate occur when people try to gain acceptance for their interpretation of the world”. For example, “is the war defensive or aggressive?”. Defining and controlling representations and images, or the frame, affects whether one thinks there is an issue at stake and whether a particular argument applies to the case. An actor fighting a defensive war is within international law; an aggressor may legitimately be subject to sanctions.** Framing and reframing involve mimesis or putting forward representations of what is going on. In mimetic meta-arguments, actors who are struggling to characterize or frame the situation accomplish their ends by drawing vivid pictures of the “reality” through exaggeration, analogy, or differentiation. **Representations of a situation do not re-produce accurately so much as they creatively represent situations in a way that makes sense.** “mimesis is a metaphoric or ‘iconic argumentation of the real.’ Imitating not the effectivity of events but their logical structure and meaning.” Certain features are emphasized and others de-emphasized or completely ignored as their situation is recharacterized or reframed. Representation thus becomes a “constraint on reasoning in that it limits understanding to a specific organization of conceptual knowledge.” The dominant representation delimits which arguments will be considered legitimate, framing how actors see possibilities. As Roxanne Doty argues, “the possibility of practices presupposes the ability of an agent to imagine certain courses of action. Certain background meanings, kinds of social actors and relationships, must already be in place.” If, as Donald Sylvan and Stuart Thorson argue, “politics involves the selective privileging of representations, “it may not matter whether one representation or another is true or not. Emphasizing whether frames articulate accurate or inaccurate perceptions misses the rhetorical import of representationhow frames affect what is seen or not seen, and subsequent choices. Meta-arguments over representation are thus crucial elements of political argument because an actor’s arguments about what to do will be more persuasive if their characterization or framing of the situation holds sway. But, as Rodger Payne suggests, “No frame is an omnipotent persuasive tool that can be decisively wielded by norm entrepreneurs without serious political wrangling.” Hence framing is a meta-argument.

## Case

#### 1] Aff doesn’t solve alt causes of monopolization, Gunelius identifies state regulations that require vertical integration, mergers, limited licensing as causes.

#### 2] They have zero evidence that monopolies make cannabis inaccessible to opioid users. Even if there are fewer strains, there’s no reason those strains can’t be used for opioid addiction. Also, no reason why innovation is key.

[3] The aff is either extra T – it would ban patents for non-medical cannabis – or it would be circumvented because people could just get patents for recreational cannabis. Extra T is a voting issue for predictability – it decks neg preparation since they could literally read anything.

#### Federal prohibition on cannabis means patents are not enforceable.

McNichol 19 William McNichol (teaches Intellectual Property as well as Cannabis Law courses at Rutgers Law School. He is a patent attorney, a member of the New York and Washington bars, and a former partner at Reed Smith LLP )6/7/19, Courts are Unlikely to Enforce Cannabis Patents, <https://globalcannabiscompliance.bakermckenzie.com/2019/06/07/courts-are-unlikely-to-enforce-cannabis-patents/> SJKS

Owners of Cannabis patents will face different problems in court. Federal courts will not resolve disputes concerning the fruits of illegal activity, nor will they enforce rights or agreements in furtherance of a crime. As early as 1886 in *Higgins et al. v. McCrea*, 116 U.S. 671, the Supreme Court held that a court will not aid a party who founds his action on acts which are “illegal, criminal, and void … [in] a court whose duty it is to give effect to the law which the party admits he intended to violate.” The *Higgins* decision relied on earlier English decisions, including *The Highwayman’s Case*, where two highwaymen committed a series of robberies and one sued the other, claiming that he had been cheated out of his share of the proceeds. The Court refused to consider the suit, turned the highwaymen over to the sheriff, and fined their lawyers for bringing a suit “both scandalous and impertinent.” *Higgins* also relied upon *Holman v. Johnson* (1775), 1 Cowp. 341, where Lord Mansfield wrote that “If, from the plaintiff’s own stating or otherwise, the cause of action appears to arise *ex turpi causa*,or the transgression of a positive law of this country, there the court says that he has no right to be assisted. It is upon that ground the court goes; not for the sake of the defendant, but because they will not lend their aid to such a plaintiff.” This refusal to adjudicate disputes founded in illegality remains a robust feature of American jurisprudence. In 1961 the Supreme Court held in *U.S. v. Mississippi Valley Generating Co*., 364 U.S. 520 (1961), that a contract made in violation of a criminal conflict of interest statute would not be enforced. In 1966, the Supreme Court held in *U.S. v. Acme Process Equipment Co*., 385 U.S. 138 (1966), *reh. den*. 385 U.S. 1032, that a contract made in violation of the criminal provisions of the Anti-Kickback Act would not be enforced. In 2001 in *Formby-Denson v. Dept. of the Army*, 247 F.3d 1366 (Fed. Cir 2001), the Federal Circuit (which has exclusive appellate jurisdiction over patent cases) refused to enforce a settlement agreement that would have required the parties to conceal criminal acts from law enforcement, which would itself be a crime. The distribution and sale of Cannabis products are crimes under Federal law, notwithstanding repeal by states of their own Cannabis laws. *Gonzales v. Raich*, 545 U.S. 1 (2005). The plaintiff in a patent infringement action will be asking a Federal court to enforce the plaintiff’s exclusive right to commit certain crimes by protecting his criminal enterprise from competition by another criminal enterprise. The inconsistency of this position will not be lost on a Federal judge who may have that very day sentenced someone to jail for distributing *Cannabis* products.

#### DEFENSIVE PUBLICATIONS AND PATENT MONITORING PREVENTS DISADS TO PATENTS

Landau 19 NICHOLAS J. LANDAU (PH.D.), JAMES W. WRIGHT, JR. 4/30/2019, Difficulties Face Cannabis Patents, Trademarks, and Other Forms of Intellectual Property, https://www.bradley.com/insights/publications/2019/04/difficulties-face-cannabis-patents-trademarks-and-other-forms-of-intellectual-property/SJKS

While this might seem like an opportunity for marijuana breeders, it also poses a threat to anyone in the marijuana industry. If the USPTO grants a patent on an old strain of the plant, those who have already been using the strain could incur liability. The fear of frivolous litigation has the potential to create chaos in the industry. Ultimately one would expect patents for old strains to be invalidated in court; nevertheless, evidence of invalidity could be hard to obtain, and litigation is costly even for the prevailing party. Many would be inclined to give up the use of a strain or settle the matter out of court even when the case involves an invalid patent. The impact of this problem can be reduced by various measures. For example, in many industries the impact of poor-quality patents is minimized by proactively publishing information about existing technology (“defensive publications”). These publications are made available to the USPTO to prevent others from patenting what they describe. Marijuana breeders could do the same and publish the details of their past and new strains to defend against someone else patenting those strains. Another way to reduce the impact of the lax patenting regime is to monitor new marijuana patents at the USPTO. Once alerted to a new marijuana patent or application, one can take appropriate action to avoid infringement, challenge the patent or application, seek a license, etc.

#### CANNABIS PATENTS HAVE NO IMPACT ON CONSUMERS

Roberts 20 Chris Roberts (Contributor, Forbes) Why Patent Cannabis? For Markets, Mostly, Forbes, https://www.forbes.com/sites/chrisroberts/2020/05/28/why-patent-cannabis-for-markets-mostly/?sh=51e038e514c3/SJKS

Okay! But so what? Why patent a hemp strain—why patent two? What does it all mean? Does Charlotte’s Web now have legal claim to the entire CBD game?To the last question, no. And as for what this means, for normal people and cannabis consumers, very little. For patent attorneys or competitors of Charlotte’s Web in the CBD industry, it portends a little more, but just a little. At least for now, cannabis patents like this one aren’t really intended to defend intellectual property in court—which is where a patent has its most practical value. No, this patent is probably meant for the market. Patents like this exist mostly for companies to satisfy and woo investors, for whom a company’s ability to say “Look! I have a patent” might be the difference between signing a check, or not. And like all publicly traded cannabis companies, Charlotte’s Web has a lot of spooked and angry investors who need pleasing