# Neg Card Doc---Dartmouth---Round 3

## Framework

### Clash---Impact

#### That process produces testing, creating a cycle of improvement. This process does not proscribe particular styles or forms of argument but does require a common point of disagreement around which arguments can be organized.

Poscher ’16 [Ralf; February 19; Director, Institute for Staatswissenschaft & Philosophy of Law; Professor of Public Law and Legal Philosophy; Metaphilosophy of Law, “Why We Argue About the Law: An Agonistic Account of Legal Disagreement,” pp. 191-226]

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

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

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

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

f) The Advantage Over Non‐Argumentative Alternatives

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

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

2. The Semantics of Agonistic Disagreements

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

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

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

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

In the case of the law, the meaning‐providing intentions connected to the provisions of the law can be understood to defer in a similar manner to the best overall theory or interpretation of the legal materials. Against the background of such a semantic framework the conceptual unity of a linguistic practice is not ratified by the existence of a single best answer, but by the unity of the interpretive effort that extends to legal materials and legal practices that have sufficient overlap119 – be it only in a historical perspective120. The fulcrum of disagreement that Dworkin sees in the existence of a single right answer 121 does not lie in its existence, but in the communality of the effort – if only on the basis of an overlapping common ground of legal materials, accepted practices, experiences and dispositions. As two athletes are engaged in the same contest when they follow the same rules, share the same concept of winning and losing and act in the same context, but follow very different styles of e.g. wrestling, boxing, swimming etc. They are in the same contest, even if there is no single best style in which to wrestle, box or swim. Each, however, is engaged in developing the best style to win against their opponent, just as two lawyers try to develop the best argument to convince a bench of judges.122 Within such a semantic framework even people with radically opposing views about the application of an expression can still share a concept in that they are engaged in the same process of theorizing over roughly the same legal materials and practices. Semantic frameworks along these lines allow for adamant disagreements without abandoning the idea that people are talking about the same concept. An agonistic account of legal, disagreement can build on such a semantic framework, which can explain in what sense lawyers, judges and scholars engaged in agonistic disagreements are not talking past each other. They are engaged in developing the best interpretation of roughly the same legal materials, albeit against the background of diverging beliefs, attitudes and dispositions that lead them to divergent conclusions in hard cases. Despite the divergent conclusions, semantic unity is provided by the largely overlapping legal materials that form the basis for their disagreement. Such a semantic collapses only when we lack a sufficient overlap in the materials. To use an example of Michael Moore’s: If we wanted to debate whether a certain work of art was “just”, we share neither paradigms nor a tradition of applying the concept of justice to art such as to engage in an intelligible controversy.

### Topic Education---Impact

#### Education about the benefits of unions makes individuals more likely to join.

Stanford PACS ’24 [Stanford PACS; April 30; Stanford Center on Philanthropy and Civil Society, “New Stanford Study Finds 92% of Americans Underestimate the Benefits of Unions, Correcting Misperceptions Can Boost Support and Engagement,” https://pacscenter.stanford.edu/news/new-stanford-study-finds-92-of-americans-underestimate-the-benefits-of-unions-correcting-misperceptions-can-boost-support-and-engagement/]

A new study from Jonne Kamphorst and Robb Willer of the Polarization and Social Change Lab (PaSCL) at the Stanford Center on Philanthropy and Civil Society (Stanford PACS) shows that Americans systematically underestimate the material benefits of unionization—and that when informed about the actual benefits, Americans express greater support for unions and pro-labor policies, and greater interest in joining a union and helping to organize a union in their workplace.

“Polling shows that unions are increasingly popular among Americans, drawing the highest levels of support in decades,” Jonne Kamphorst, PaSCL Research Fellow and lead author of the study, said. “Yet our research suggests that unions would likely be supported even more if people viewed them more accurately—a finding that could have important implications for American workers, voters, policymakers, labor advocates, and businesses.”

To explore Americans’ perceptions of the benefits of unionization, Kamphorst and Willer conducted a survey on a representative sample of 1,430 Americans asking them to estimate the levels of material benefits earned by unionized and non-unionized workers in the U.S., considering annual income, health care, retirement benefits, and more.

The survey found that a large majority of Americans greatly underestimate the material benefits of unions. For example:89 percent of surveyed Americans underestimated the life-time income premium associated with union membership;72 percent underestimated the percentage of union members who receive health insurance from their employer; and97 percent overestimated the average union dues rate (estimating it to be more than 10 percent of a union worker’s income when it is in fact close to 1 percent).Using an overall, composite measure of all the benefits studied, 92 percent of Americans underestimated the material benefits of unionization.

Kamphorst and Willer also tested the effect of correcting Americans’ perceptions, by randomly assigning the Americans they surveyed to receive accurate information, drawn from academic and government research, on the benefits associated with unionization. They then re-surveyed their participants after receiving this information (or not), finding that those whose perceptions were corrected showed more positive views of unions across many measures. Americans who received the corrective information reported greater support for unions and pro-labor policies and greater interest in joining a union and helping to organize a union in their workplace.

“Our results suggest interest in joining unions—and support for policies that would reform U.S. labor law—would be higher if not for significant underestimates of the material benefits associated with unionization,” Robb Willer, director of PaSCL and faculty co-director of Stanford PACS, said. “These misperceptions may help explain why interest in joining unions in the U.S. continues to lag behind peer countries. Highlighting the benefits of unionization to the American public could change that dynamic significantly.”

#### The labor movement is at an impasse. Only further engagement with labor law through theory-testing makes labor activism effective. Debate has liberatory potential AND we ought to orient our discussions around it.

Naidu ’22 [Suresh; Fall; Professor of International and Public Affairs and Jack Wang and Echo Ren Professor of Economics at Columbia University; Journal of Economic Perspectives, “Is There Any Future for a US Labor Movement,” vol. 36]

Or it might. So long as work occupies such a large share of time for so many people, the process of joint production can generate a set of unique social ties. These networks can be enlisted by employers for their own political or social ends (HertelFernandez 2018), or deployed to facilitate collective action by workers themselves. The gig economy, which may at first seem to separate workers, may paradoxically provide the scaffolding for such an organization: when workers all interact online, the emergence of online fora to coordinate and make demands can be successful. Traditional unions were born in factories that brought together workers who has previously been dispersed in the “putting-out system” (Marglin 1974). Modern platforms centralize jobs that were once too dispersed and marginal to organize, and thus give unions and workers a single organizational target: Jin, Kominers, and Shroff (2021) offer an overview of what unions could look like in platform sectors. The increasing need for caring labor, be it health care, counseling, education, or mental health, will not soon succumb to automation, and indeed is very likely to continue to be subsidized by the government, creating scope for a rise in readily unionized public employment. Finally, the steady increase in income inequality, and general support for pre-tax measures to curb it (Kuziemko, Marx, and Naidu 2022), will keep labor organizations in the minds of policymakers and advocates.

Rapid increases in union density are like wildfires (or pandemic waves), and I have little confidence in predictions about whether worker organizations will grow, or even persist, in the twenty-first century. If they do, I suspect they will be very different from the labor organizations of the twentieth century. These new organizations, possibly incubated inside or alongside existing labor unions, will depend on government in new and multiple ways, deploy collective action at multiple scales for both economic and political goals, and use and bargain over technology in ways that are hard for any middle-aged academic to anticipate. In the current lopsided legal environment, labor market tightness has been an important input into emboldening workers to organize: a sharp recession could quickly restore employer temerity to discharge workers and dampen whatever sparks in labor organizing we have now. But rising unemployment could also trigger even more militant labor activism.

One role for researchers in a moment of renewed labor activism is to build partnerships with unions new and old to study the problems of mobilization and organizing that I have highlighted in this paper, both as a laboratory for testing theories of collective action and workplace social networks and in pursuit of a subject of intrinsic policy interest. Economists have built partnerships with private companies, governments, charities, and nongovernment organizations to obtain access to administrative data and study scientific problems with randomized control trials on topics of mutual interest. Adding labor unions to this list gives us, as social scientists, a front row seat to assess which strategies of an energized labor movement might catch fire.

#### Care locks in right-wing violence---a progressive role for the state is needed.

Huneke ’22 [Samuel; July 26; Professor of History at George Mason University, PhD from Stanford University; The Point, “Toward a Queer Theory of the State,” https://thepointmag.com/politics/toward-a-queer-theory-of-the-state/]

Moreover, when it comes to issues of identity, rights and the future of our planet, it’s clear that progressives struggle to articulate a coherent framework for thinking about the role of the state. Progressive politicians’ response to the Supreme Court’s Dobbs decision striking down Roe v. Wade has, in the best cases, largely focused on supporting community abortion funds and ensuring that women in states that now ban abortion will be able to access the care they need. This is, of course, vital. But it can only be a Band-Aid on the problem until there is a state that is able and willing to guarantee women’s equal rights and access to care. Few politicians have yet endorsed any of the many creative solutions President Biden might adopt to counteract the Supreme Court’s decision, from ignoring the Dobbs ruling or expanding the Supreme Court to operating abortion clinics on federal lands or even calling a general strike.

Similarly, the partly has been nearly silent on the wave of transphobic and homophobic legislation now sweeping across the country—the latest evidence that social conservatives have never shrunk from using the state to advance their agenda. Party leaders have preferred to tell their frustrated base that the best solution to any given national problem is to “vote,” perhaps forgetting that the 2020 election delivered to the Democratic Party unified control of the federal government, that they in fact have the power to act. That forgetfulness is not, I think, strategic or even necessarily intentional; it is rather the culmination of decades of neoliberal politicking and anti-statist theorizing, which have colluded to make Democrats unable to conceive positively of state power. As Walter Benjamin suggested of European parliamentarians a century ago, “they have not remained conscious of the revolutionary forces to which they owe their existence.” If we are to counter the rising threat of the populist right, this is something that will have to change.

We might begin charting a new path by returning to Benjamin’s critique of violence, which resonates so deeply with queer critiques of the state. To directly compare the two, however, makes plain that something is missing in queer theory’s approach. Queer theory’s rejection of the state rests on the tacit assumption that violence can be transcended, that with the right form of critique and with the right forms of direct action, we can break free of history’s moorings.

Yet Benjamin recognized this as pure fantasy: there is no externality to violence. When queer advocates call for a retreat from the state and a return to forms of community organizing as a way to escape the state’s violence, they are engaged in wishful thinking. And if they imagine there is any way to solve the crises we face without power, they are deluding themselves. “Every conceivable solution to human problems,” Benjamin wrote, “remains impossible if violence is totally excluded in principle.”

### AT: Exclusion

#### All social organization involve some judgement and intervention, so it is just a question of effectiveness.

Ypi ’16 [Lea; 2016; Professor in Political Theory in the Government Department, London School of Economics; The Trouble with Democracy: Political Modernity in the 21st Century, “From Realism to Activism: A Critique of Resignation in Political Theory,” Ch. 10]

If we take seriously the unavoidability of conflict thesis, we will come up with two different interpretations of legitimacy demands compatible with norms internal to it.9 One interpretation leads to the idea that since politics is by its nature inherently coercive and ill-suited to promote a variety of ends, we should seek to contain its reach by theorising alternative associations (economic, cultural, religious) where individuals can pursue their interests and act together in a more spontaneous form.10 Thus, if we limit our ambitions to the attempt to secure order rather than guarantee justice, we will contain the potential for abusing power in seeking to realise the latter. But the problem with this view is that it conflates the statement that politics is essentially coercive with another one, which appears more controversial – namely, that only politics is essentially coercive. Although it is plausible to say that any exercise of political power, however noble its inspiration, is likely to result in a few elites imposing their own standards of legitimacy on the rest of the civic body, it is naïve to suppose that only political elites are vulnerable to a similar critique. If disagreement among individuals exists and is unavoidable, it will shape any association in which they take part. If rules are needed to contain such disagreement, the question of who makes such rules and in what name will apply to all circumstances characterised by division of labour, structures of co-ordination, and collective decision-making. Thus, not just political institutions but also families, the market, religious organisations (to mention but the most relevant examples) will entail some degree of coercion in order to flourish. It is contrary to the spirit of realism to assume that they will spontaneously guarantee the pursuit of agents’ ends free from any degree of unilateral interference. Even more importantly, if disagreement pervades all areas of human interaction, the distinctiveness of the political as that realm in which collective decisions must be made on the face of such disagreements seems difficult to capture.

### Individualism Turn

#### Voting aff locates causality in ideology instead of material structure, which mystifies the workings of capital.

Gonçalves ’25 [Bruna; 2025; Researcher, Department of Law, European University Institute; The Sage Handbook of Decolonial Theory, “Decolonial Social Theory: Co-optation and the Problem with the Epistemic Turn,” Ch. 10]

Before starting any actual analysis, I should clarify what do I consider critical, if not the intuitive meaning of the word. Of course, criticality is a fluid idea, like any other term. But among these definitions is what I consider to be critical in a stricter sense: the project of understanding the fundamental social mechanics grounding violence with the intent of transforming it. This definition originates in Marx and is expanded in Max Horkheimer’s early works. There are two quotes, one from each author, which express the core of the idea: Marx’s saying ‘to be radical is to grasp the matter at its root’,21 and Horkheimer’s claim the purpose of critical theory ‘is not simply to eliminate one or other abuse, for it regards such abuses as necessarily connected with the way in which the social structure is organized’.22 Root and social structure, here, should be read in light of historical materialism.

In Grundrisse and in the first volume of Das Kapital, Marx explains this method as a response to the dominant method of his time, empiricism. Empiricists looked at the big picture and explained it through pre-conceived abstracts, which they took as universal and natural, without the need for further explanation (e.g. state, population, commodity, etc.). Marx considers that insufficient to understand the social apparatus in which we live. He argued the premises of the system (e.g. individualism) could not be assumed to be human nature, as 18th-century philosophers had done, and its origins had to be investigated as a social product.23 His alternative was inverting the order of investigation and deepening it. For example, the definition of state reveals a number of other abstract concepts, such as population, territory, border, class, and so on. If we limit our comprehension to this level, we are unable to understand from a social perspective what it means from an organizational perspective; why society is organized this way. To define what state is, I need to know what population is. To know what population is, I need to know what class is, what territory is, and so on. None of these concepts can be presumed.24

Historically, we know there are infinite ways to organize society – assuming this is the only possible or, to the very least, the best possible is not only foolish and arrogant but wrong. The dialectical materialist would attempt to find the last level of the dependency chain connecting the abstract concepts we use to describe social organization. At the end of this chain, denying ideas are founded upon themselves as spontaneous mind creations and that social organization arises from spontaneous ideas without a change in the material basis of social experience, they find a concrete reality. That is, a social practice established through gradual transformation, action.25 This investigation reveals to the dialectician the basic logic upon which the complex of institutions and structures operates. Marx derives his analysis from the mode of production because he considers only two things can be presumed about the logic of human interaction: that we depend on means of subsistence (e.g. food), and on each other. The mode of production concerns the way we organize our interdependence through the means of subsistence.26

By revealing the conceptual and material origin of the organizational system, the method enables imagining and strategizing what it takes to transform it; which level of the chain requires intervention. To inherit the system from past generations here refers not to the ideological context of the individual or the institutions, but the very form which institutions and behaviors assume. History is, then, not the temporal and chronological origin of things but the establishment of the chain. Olúfèmi Táíwò, in a brilliant attempt to describe that, uses the metaphor of the continuous appliance of Roman aqueducts in water management. Organizational structure, he says, ‘spans the globe, channeling, instead of water, advantages and disadvantages from one place to another. The system describes which way future waters will naturally run, and where they will not run without intervention’.27 The waters, in that case, encompass all the aspects of social life, where difference is expressed and reinforced: ‘money, media, violence, advantage, disadvantage’.28 They are the visible and experienced facets of the system. But the aqueducts are its cause. Dialectical materialism aims to understand the mechanics of the aqueducts based on the motivations for their creation more than the narrative story of how they were built or the conditions of the water. This is what its followers will refer to as social structure: the logic upon which the system is built. Theory aims to find the mechanics of the complex totality through an investigation of the material origins of the system’s premises. That explains why Marx, as a philosopher, did not focus on inequality per se, but through breaking down the basic premises of capitalism, he unveiled the inherent exploitative character of the commodity form.

Now, looking back on the example I gave of Crenshaw, what she investigates is not the social structure in the sense delineated by Marx. She identifies a network of events within the lived experience that results in identified violent experiences. The intent here is to find remedies for the victims of such violence, considering they are not seen by the law, which only considers violence in isolation from context. To put it differently, she aims to eliminate the experience of abuse, though with only a broad understanding of how the social structure underlying them works. For example, domestic violence can be connected to financial dependency, which can be connected to poverty, which is higher in racialized communities due to institutionalized racism and misogyny. In order to fight domestic violence, society needs to address the root cause of discrimination. Structure is, for her, that ‘root cause’: social hierarchies embedding institutions and interactions. She then exposes the consequence of the system (the experience, the outcome), but its mechanics remain hazy, broadly defined as ideology.

When addressing intersectionality, Crenshaw does not explore what in the legal form, for example, hampers addressing complex axes of discrimination. She only hints at a problem with the law’s ‘remedial scope and normative vision’.29 Her real concern is with the law’s (and feminist theory’s) content, ideology – how the white feminist and liberal ideologies permeate the law, and how the law reinforces those ideologies with its definition of discrimination.30 In other words, the dialectical relationship between the legal superstructure and a dominant worldview. The methodological choice is oddly similar to that of empiricists, though, instead of looking for facts through a pre-conceived procedure, it relies on personal narration. Despite this difference, they equally rely on the idea that ‘research is (it is argued) the laborious ascent from the description of social phenomena to detailed comparisons and only then to the formation of general concepts.’31 That translates as assuming ‘the genesis of particular objective facts, the practical application of the conceptual systems by which it grasps the facts, and the role of such systems in action, are all taken to be external to the theoretical thinking itself’.32

I want to be very clear that I am not saying the sharing of social experience is entirely negative – I find it extremely valuable as a resource for building solidarity and bringing light to realities often hidden from the mainstream academia and media, dismissed as unscientific or solipsistic. However, when it lies in the center of theory, rather than an anecdote or a context for the analysis, it ends up exposing only the surface level of the issue. That, in turn, results in a loose strategy for tackling the identified problem. If we only look at the experienced result and the surface-level causality between different facets of violence (domestic violence and financial dependence, for example), it is possible to presume a malfunction in the existing institutions without even questioning the possibility of it being fundamentally flawed. It is ironic that Crenshaw criticizes the courts’ approach for focusing on the outcome of violence,33 but she also only focuses on the outcome – the structural outcome – when looking exclusively at experience instead of the social mechanics.

This type of investigation follows another definition critique, associated with the Foucauldian genealogy and Derridean deconstructionism, and with the influence of literary theory, and broadly identified as the aftermath of the ‘linguistic’ and ‘hermeneutic’ turns in philosophy and sociology, respectively. Characterized by its post-positivism, it instructs the investigation of how individuals experience the effects of the social structure, and shape these experiences - ideology, linguistics, history, etc. Post-positivism (or post-empiricism) is a theoretical orientation combining interpretivism, and anti-foundationalism.34

Interpretivism concerns the interest in the normative character of language and experiences; discourse. Social experiences are studied in light of the politics of the knowledge contained in them, their history and situatedness in social ecologies. This is not entirely foreign to Marxism since a fundamental aspect of dialectical materialism was its opposition to the objectivism implied by empiricists - that is, the existence of a permanent matrix and root of power that repeats in every society or a general logic. The concepts shaping social reality are, for Marx, historically grounded. The fact that structures are built around this history, however, create objective bodies that reproduce the original logic as if it was natural, which is the starting point of his theory. Ideology follows this pattern, and therefore is described as a superstructure, and not a structure – it is conditioned by the foundation of the system. Western Marxists, starting with György Lukács, add an extra Hegelian touch to the theory and theorize the visible reality as a mediation of the underlying logic, taking the outcome experiences of people in the superstructure as their object of study. That also grounds the quest taken upon by part of the Marxist feminist and Black scholarship in rearranging Marxism to address the influence of culture and ideology.35 But that is not the path adopted in the later take on interpretivism.

Ruth Wilson Gilmore explains interpretivism as ‘[understanding] the means through which ordinary people do or might organize, promote ideas, or bargain in the political arena. Such understanding might be achieved through figuring out how people make sense in and of their life.’36 That is, the researchers look in the outcome of social mechanics, the social experience, to interpret social dynamics. With the linguistic turn, this comes to mean something different than for Marxists. The linguists do not reject a priori analytical categories, like Marx, because they promote idealism (the notion that social reality is constituted by consciousness), and in doing so limit theory (failing to understand the premises of social organization and accepting a false ‘naturality’ of the regime). They do so because of their social implications as ideas, the experienced effects of the ideological limitations they produce in presuming universalism and objectivity; their role as discourse. The concept of discourse here conveys the understanding language and social semiotics are constitutive of social experience.37 In other words, language and ideology play a role in social organization – they are determining elements of the structure. Though this may be entangled with the material aspects, discourse theorists tend to dislocate the materialist character of the social foundation and embrace idealism (which is why discourse is often distinguished from ideology in the literature)38 – the notion that ideas constitute reality, to the detriment of factual experience.

The disseminated and unstructured character of language leads them to a second consequence: the denial of a foundation to look for in social analysis. In that case, we have anti-foundationalism. Anti-foundationalism rejects the existence of a root of social mechanics, as sought by Marx and in Horkheimer’s original definition of critical theory, and resigns to the idea of a broad logic, referring to a social pattern rather than a proper structure. Here is where it makes sense to talk about the structure as widespread inequality and an experimental causal chain, rather than as a conceptual chain (as seen in Crenshaw). As a result, theory loses its capacity to strategize social transformation. After all, how do you change a loosely defined pattern? When you abdicate the search for its functional logic, its practical origin? The analytical focus of social theory disappears to hermeneutics. Historical and cultural continuums then take a central role as the explaining features of an observed pattern of domination, replacing the conceptual-structural continuum. They also becomes central to theorization and emancipatory strategy, working as a diffuse reasoning of behaviors and experiences, from which it is possible to ‘interrogate, evaluate and even overturn and disrupt their meanings’.39 We think here of the perception of multiple ways to look into one same practice as a way to challenge, and (thinking of social change) delegitimize the authority of the dominant discourse interpreting it in social organization.

In the history of ideas, this framework is loosely connected to the former. One of its many inspirations is the other side of the Frankfurt School’s relationship with Marx: its critique and relativization of his lessons. Its critique included, for example, the denial of the proletariat’s role as the agent of change, the rejection of the political developments in the Soviet Union, and a certain disbelief on the possibility of revolution.40 Theory-wise, this led to an expansion of the search for the determining factors of the structure to the ‘material conditions, human needs, and social struggles against oppression’,41 and an overall focus, especially from the 1930s onwards, on the role of ideology. This gradually took over the different projects within the Frankfurt School and led to its overall distancing from Marxism. Initially, as a Marxist school inspired by Lukács, critical theory saw the study of superstructures as a study of the mediations of the totality.42 They were means to look at the underlying root but were not the interest of the theory itself. The later contributions of Frankfurt nevertheless overwhelmingly embraced anti-foundationalism and, with it, meta-theoretical investigation, epistemology, and psychology predominated.

Regretting this turn, authors such as Nancy Fraser and Patricia Hill Collins have become engaged in reconstructing critical theory’s goals, emphasizing its original focus under the title of critical social theory (the former, reigniting the project’s Marxist undertone). The authors rescue the concern with the mechanics moving social process as a whole and remember such investigation is strictly aimed at social intervention – the analytical focus and its critical purpose. In other words, critique is reasoned as ‘a guide to strategic action for bringing about an alternative order’.43 Intervention depends on the identification and elaboration on the mechanics of the system, not just the experience of inequality. This is the role of theory.

The proposal marks a return to foundationalism, for it rejects that only disseminating ideas can bring forth social change. Praxis is rescued as a dialectical relationship between thought and action where action represents social organizing informed by a theoretical framework, instead of being seen as a spontaneous result emerging from a gradual process of ideological shift in a society. If it were to be seen in this other way, action and knowledge would appear as one sole thing, with knowledge doubling as the source of change, but the authors explicitly reject that. Horkheimer already said that‘[i]f a theoretical procedure does not take the form of determining objective facts [understanding the mechanics of concrete reality] with the help of the simplest and most differentiated conceptual system available, what can it be but an aimless intellectual game, half conceptual poetry half impotent expression of states of mind?’44 Fraser proposes a similar inquiry. ‘A critical social theory,’ she preaches, ‘frames its research program and its conceptual framework with an eye to the aims and activities of those oppositional social movements with which it has a partisan though not uncritical identification’.45 She understands from that criteria that the empirical adequacy of critical theory can be assessed with the questions ‘how well does it theorize the situation and prospects [of the movement] (…)? To what extent does it serve the self-clarification of the struggles and [their] wishes (…)?’46 Such a framework can be compared with Gilmore’s Marxist reading of theory as a means ‘to learn how to interpret the world in order to change it.’47 It should serve as ‘a guide to action’; it explains how things work.’48

### Interp

Topicality:

#### Our interpretation is topical definitions establish the burden of proof and rejoinder to set the confines for a debate to unfold. In that context, ‘the USFG’ must be the subject and ‘should’ denotes action.

Hiland ’24 [Alexander; 2024; Senior Lecturer in Communication & Media at Rensselaer Polytechnic Institute; A Short Guide to Policy Debate, “Analyzing Debate Topics,” Ch. 1]

In preparing for policy debates, topic analysis serves three essential functions. The first is to develop a tentative understanding of what specific issues will be argued by both sides of the topic. The second is to develop a strategy for how to research the topic, to maximize the likelihood of being adequately prepared to be competitively successful. The third is to determine what the affirmative must demonstrate to be true in order to justify the judge voting for them, and by extension what the negative side will have to disprove.

To satisfy the first function, a debater would be well served to consider two things. The first is what area of policy is the focus of the resolution. The easiest way to make this early determination is to identify the relevant “terms of art” within the resolution. These terms are typically nouns or verbs that, either singly or frequently in combination, denote something greater than what is found within the dictionary for the terms used individually. These terms of art typically are used by the topic committee to ensure that the resolution reflects debates taking place outside the narrow confines of the debate community.

To identify terms of art, there are a couple of productive steps that one should follow. First, consider punctuation, the inclusion of hyphens or quotation marks are good indicators that a term of art is in use. Second, look for terms that only seem to make sense in conjunction with each other. Below, we will look at one example from the 2023–2024 debate season. One more strategy would be to review the controversy paper submitted for the topic, which often has research compiled about the terms of art relevant to the controversy.

Using the 2023–2024 debate topic, one example would be the phrase “nuclear triad.” A search of the term from Merriam-Webster would return no results, but a search that entailed looking for “nuclear” and “triad” separately would produce results that provide definitions of both words. The result would be:

Nuclear: 2c(1)

: being a weapon whose destructive power derives from an uncontrolled nuclear reaction6

Triad: 1

: a union or group of three: TRINITY7

This combination of definitions provided without context might allow someone familiar with the term to deduce the correct interpretation, but for those who are less familiar with the term of art, it is not an especially helpful pair of definitions because it doesn’t really provide much specificity for how those words are used in conjunction.

By contrast, recognizing the term “nuclear triad” as a term of art allows rather rudimentary searches (for more detail on how to perform searches, see Chapter 3) to produce much more helpful definitions contextualized to ongoing debates in the field of nuclear weapons policy. For example, the Center for Arms Control and Non-Proliferation, a non-partisan non-profit that advocates for the reduction of nuclear arsenals,8 defines the “nuclear triad” in the following way,

The U.S. nuclear arsenal comprises thousands of nuclear weapons and three methods of delivery, sometimes called “legs.” Warheads can be launched from the air via strategic bombers carrying gravity bombs or cruise missiles, from the sea by submarines holding ballistic missiles, or from underground silos housing intercontinental ballistic missiles. Collectively, these delivery methods are referred to as “the Triad.” Currently all three legs of the Triad are being modernized at a cost of $494 billion, or about $50 billion every year from 2019 to 2028.9

This definition, although it carries a suggestion of bias given the interests of the organization offering the definition and the emphasis placed on the cost of modernizing the legs of the triad, is much more helpful because it is contextualized to ongoing debates about what to do with the triad. To help ensure the validity of the definitions provided for a term of art, it’s always a good idea to find two or three definitions that are essentially similar to help control for bias.

After identifying terms of art within the resolution to help clarify the topic students would be well served to grammatically interpret the topic in order to validate their interpretation of how the topic will be debated. Although many debaters and their coaches ignore this step because they assume the wording of the topic is secondary to the norms for how collegiate debate typically functions, those assumptions can be risky, especially where certain terms might carry a substantial meaning for the topic depending on their usage. More importantly, for those looking to get started debating, this step can be remarkably productive in understanding how debates tend to play out.

In the resolution which we will be using, the object of the sentence is identified as the “United States Federal Government,” which is significant because in standard English grammar, the object of the sentence has agency to affect the subject of the sentence; hence, the United States Federal Government is referred to as an agent. The verb in the sentence is “should restrict,” indicating that the agent of the resolution will be obligated to curtail the subject of the sentence which is indicated by the determiner “its.” The subject of the sentence is “nuclear forces.” The sentence is modified after the subject by the phrase “one or more” meaning that the affirmative might choose between multiple options, with a list indicated by “following ways” and the subsequent colon.

In each of the listed items we have a gerund form of the verb indicating that where the interpretation of the verb is not clear from the definition of the word it will be interpreted as a form of the initial verb in the sentence (restrict). This illustrates why reading the topic grammatically is helpful because it clarifies that the gerund form of the verb beginning each sentence subject to the term restrict, meaning the affirmative cannot defend an expansion of nuclear forces.10 Subsequently, each line has a subject noun that sets the parameters for what the United States Federal Government can do under the auspices of the resolution by constraining the number of subjects which can be acted upon.

#### ‘Federal’ means central government of the US.

Cambridge ’25 [Cambridge English Dictionary; 2025; most popular dictionary and thesaurus for learners of English; Cambridge English Dictionary, “federal,” https://dictionary.cambridge.org/dictionary/english/federal]

federal

adjective

uk /ˈfed.ər.əl/ us /ˈfed.ɚ.əl/

Add to word list

C1 [ before noun ]

relating to the central government, and not to the government of a region, of some countries such as the US:

the federal government

a federal agency/employee

A federal system of government consists of a group of regions that are controlled by a central government.

Fewer examples

They were charged with violating federal law.

#### ‘CBRs’ are strengthened via governmental action.

Powell ’25 [Russell; February 3; professor of law and endowed scholar at Seattle University School of Law; UC Law Business Journal, “Fallout and Fiduciary Duty,” vol. 21]

Labor power has decreased over the past forty years, partly due to increasing corporate opposition to unions, which has pushed Congress, the Executive, and courts to weaken existing protections.121 Efforts to fortify labor rights might include laws that strengthen collective bargaining rights, mandate equitable pay, and enforce stricter workplace safety standards.122 Regulatory agencies could be empowered to provide more rigorous oversight and penalize unfair labor practices, ensuring compliance with labor laws; however, recent Supreme Court decisions have significantly curtailed agency enforcement power.123 Ultimately, the Supreme Court would probably have to restore or at least clarify agency authority, as well as interpret labor statutes more broadly to favor workers' rights.

## Case

### Defense

#### State action and ‘rights’ are in-line with the 1AC.

Currah ’22 [Paisley; 2022; Professor of Political Science and Women’s & Gender Studies at Brooklyn College and the Graduate Center of the City University of New York; Sex Is as Sex Does: Governing Transgender Identity, “Sex Is as Sex Does: Governing Transgender Identity,” p. 96-97]

Ultimately, the arguments of this book should not just better our understanding of states' decisions about sex, but also inform a politics that challenges these injustices. Certainly, there is a real harm here—many transgender people are misclassified by states and do not wish to be— that should be resolved. But the conviction that sex misclassification is unjust is not grounded in the findings of science or medical authority. Nor is it based on any utopian ideal of a state that does not classify and does not (mal)distribute. Of course, state decisions on sex classification have real effects on individuals and those effects can be unjust. Having the "wrong" sex designation creates obstacles to full and equal participation in social and civic life. As an advocate for transgender equality, I have relied on the traditional rights-based approach to recognition and have crafted policy proposals for agencies to reform their standards for determining sex. I have sat on agency advisory committees and worked with officials to change standards for sex reclassification, relying heavily on the "medical model" in the process. As a political theorist, I have also critiqued attempts to fit into systems of sex classification and argued for the "disestablishment" of sex/5 I have suggested that the goal of recognition leaves intact the power of the state to decide who gets what, and that ending its ability to use sex to distribute resources, rights, and privileges—marriage, and the benefits that derive from it, is the most obvious example—should be a priority for the movement. Like many in and around movements for transgender rights, transgender equality, and gender justice, I hold both positions simultaneously. They are not necessarily incompatible. One might see them, instead, as inhabiting different time frames, or moving at different speeds: one is a short-term objective of recognition to alleviate the material problems of misclassified individuals in the here and now, and the other is a long-term vision of a government that does not tell anyone what sex they are. Despite my earlier breakdown of the various camps and their arguments, these different viewpoints are not necessarily held by distinct sets of people. The appearance of one or the other might depend, instead, on what position is most intelligible and useful in a particular context.

#### They ought connect their politics to concrete strategies. Theorizing trans life as inherently disruptive oversimplifies and depoliticizes.

Cull, 25—Research Fellow at Trinity College Dublin (Matthew, “Ideal Theory, Literary Theory: Whither Transfeminism?,” The Routledge Handbook of Non-Ideal Theory, Chapter 18, pp. 254-256, brackets in original, language modifications denoted by chevrons, dml)

The above points us away from ideal theory approaches to understanding trans people. Rather than relying on idealizations about trans people and the societies that they inhabit, one should look to the specifics of trans life, the contexts that they find themselves in, and the approaches that they take to navigate an often hostile world. However, the above considerations do not merely point to better ways to theorize about trans people. They also point to a transfeminist politics.

Remember the ways in which both queer theorists and cultural feminists were critiqued for idealizing the political capacity of trans people. By virtue of existing whilst trans, trans people were positioned as inherently disruptive or oppressive, inherently able to overthrow or reinforce oppressive systems. Such views wildly overstated the political power that trans people have just in virtue of being trans people. This does not, of course, mean that trans people are completely powerless: not at all. However, political power requires more than merely existing as trans – it requires organization, movement building, and developing popular support. Trans people, in virtue of our low numbers and relative material disposses- sion, cannot rely solely on ourselves to make political change. We need to build a broad-based movement that builds alliances with other working-class and lumpen populations to resist transphobia, exploitation, racism, and so on.

Of course, despite Namaste and Prosser offering powerful reasons to reject ideal theory in both its queer theory and cultural feminist forms, ideal theory continues to find support in some quarters. On the one hand, Raymond-inspired right-wing anti-trans movements have of course found a new life in the late 2010s and early 2020s. On the other hand, an unexpected revival of ideal theory in the queer theory mould has emerged from the afropessi- mist tradition in the work of Marquis Bey. I suggest that we must reject both of these forms of ideal theory, instead building a transfeminist movement led by trans people and grounded in the experiences and needs of trans people.

Certainly, we cannot just, as Bey has recently suggested in Black Trans Feminism, build a transfeminist movement on an abstract notion of transness, distinct from being transgen- der (Bey, 2022, p. 44). Bey seems to have entirely missed the critiques of Prosser and Namaste to return to a queer-theory-like conception of transness as inherently radical. For Bey, transness is “primarily a movement away from an imposed starting point to an undis- closed (non)destination, [which] emblematizes abolitionist gender radicality: the fixedness and presumed immutability of bodily bestowal is dissolved through a departure toward something else” (Bey, 2022). This is ideal theory par excellence – and we may rightly ask of Bey exactly where trans women, especially Black trans women, fit into the vision of Black trans feminism being put forward. Bey at least has the self-awareness to declare that “black trans feminism is not about black trans women” (Bey, 2022, p. 32). Bey’s position appears to posit an idealized social ontology, idealized political capacities, abstracts away from the realities of trans life, and so on, in precisely the kinds of ways that Prosser and Namaste were worried about in their Millsian critique. Nowhere is the contrast between Bey and our non-ideal theorists clearer than when Bey claims that trans people are “an impossible peo- ple” (Bey, 2022, p. 105).17 Compare Namaste:

[I begin] with the mundane assumption that TS/TG people exist, that we live – and die – in the world … I take it for granted that transsexual and transgendered people exist, and that we shall continue to do so even as the theoretical frameworks that explain our etiology, celebrate our transgression of a sex/gender binary, or condemn us to psychosis go in and out of style. (Namaste, 2000, p. 55)

We exist. We are possible. Not only does such queer theorizing fall victim to the critiques of ideal theory mentioned above, such theorizing is also politically paralysing <incapacitating>. Instead of concrete calls to action and demands based in the lived realities and needs of trans people, we get a call for the abstract idea of “abolition.” Unlike those in the Black radical tradition whose call for abolition is a concrete set of demands (the defunding of the police, the end of incarceration, and so on) based on the actual violence that Black people face (police brutal- ity, mass incarceration, and so on),18 in Bey’s revival of idealist queer theory, we get a call for abolition which is a call for the end to an abstract idea – the end to “logics of captivity,” where such “logics” seem defined primarily in terms of the use of categories (Bey, 2022, pp. 228, 72–77). Even if the use of categories is always bad (though I submit it is not – see Cull, 2019; Cull, 2024) I suggest that our political movements ought probably to focus on abolishing the actual prisons, not the metaphorical ones.