

THE FORENSICS FILES'S

THE NATIONAL JOURNAL OF SPEECH & DEBATE

VOLUME I: ISSUE 3

APRIL 2013

Published by [The Forensics Files](#) © 2013 All Rights Reserved.

TABLE OF CONTENTS

CRITICAL ARGUMENTS WITHOUT ALTERNATIVES

BY ARMANDS REVELINS 3

**A CASE AGAINST PUNISHMENT THEORY IN LD DEBATE:
OBJECTIONS TO “EMO” DEBATE**

BY RICHARD COLLING 19

CRITICAL ARGUMENTS WITHOUT ALTERNATIVES

BY ARMANDS REVELINS*

*Armands Revelins finished his fourth year of high school policy debate by winning the Tournament of Champions. He then debated for the University of Southern California and concluded his fourth year of inter-collegiate debate by clearing to the elimination rounds of the National Debate Tournament. He received his M.A. in philosophy from the University of Illinois at Urbana-Champaign and has taught philosophy courses for ten years. Armands currently coaches public forum debate at Millburn High School and inter-collegiate policy debate at Binghamton University.

I. INTRODUCTION

In an article written 20 years ago, William Shanahan suggested that the debate community should embrace the kind of thinking that is encouraged by critical ‘kritik’ arguments.¹ Shanahan’s article used a metaphor for thinking that was initially presented by Martin Heidegger and applied it as a model for what debaters who advance and engage critical arguments should do. Heidegger described the manner in which one proceeds along a woodpath (in German, *Holzweg*).² In a dense forest, the specific route is not and cannot be legislated in advance, and insights emerge as one proceeds. In a recent book on Heidegger, John Richardson writes that, instead of “aggressive exploration,” finding one’s way along a *Holzweg* involves comporting oneself with a “receptiveness that refrains from representing what it awaits.”³ Debate traditionalists were afraid that arguments that involved such thinking had no role in competitive debate and would destroy the activity. They believed that debate should be strictly about policy,⁴ where one creates one’s path as if one is paving a road directly from one’s advocacy to one’s advantages.

Such pavements are now all cracked. The fecund growth found underneath has upended concrete, spreading chunks in different directions. Critical arguments are found in affirmative as well as negative speeches. They branch out into multiple

¹ William Shanahan, *Kritik of Thinking*, in DEBATER’S RESEARCH GUIDE - HEALTH CARE POLICY: DEBATING COVERAGE CURES 1993, at A3–A8 (Roger E. Solt and Ross K. Smith, eds.).

² MARTIN HEIDEGGER, COUNTRY PATH CONVERSATIONS 2010 (trans. B. Davis.).

³ JOHN RICHARDSON, HEIDEGGER 2012, at 320.

⁴ Matthew Shors & Steve Mancuso, *The Critique: Screaming Without Raising Its Voice*, in DEBATER’S RESEARCH GUIDE - HEALTH CARE POLICY: DEBATING COVERAGE CURES 1993, at A14–A18 (Roger E. Solt and Ross K. Smith, eds.).

formats of debate (public forum: you're next). The knotted roots and wooden upsurge of the forest—the *Holz* of the *Holzweg*—cannot be excluded because it was always there as the various foundational assumptions for any argument. It was just up to innovative debaters to dwell upon traditional arguments, notice the operating assumptions, and indicate how they affect the present debate.

The innovative surge of critical arguments in debate may have achieved such popularity that it now suffers from a certain amount of sedimentation. Critical arguments are so commonplace that community expectations about the structure, features, and burdens of such arguments have settled. The intercollegiate and high school cross-examination debate community has accepted critical 'kritiks' as part of the canon of typical debate arguments by insisting that a kritik must have an alternative. This assumption is false, and is a reflection of the harms-fixated nature of contemporary debate. The debate community should reconsider how it tends to think about arguments in terms of how they relate to comparative harms. Arguments can be relevant for debate just by having a link and an implication. I will use critical 'kritik' arguments that are advanced by negative teams in cross-examination debates as an example. Specifically, I will discuss how what I call language-kritiks and episteme-kritiks can be complete and strategically useful even without advocating an alternative that is compared to affirmative harms. Anticipating that this may raise concerns about fairness in argument, I will suggest some ways that affirmative teams can effectively respond to such kritiks. I will speculate about norms of the debate community that may have contributed to the misattribution of alternatives as a necessary burden of kritiks. The upshot of challenging these norms is the possibility that debaters from a broader range of disciplines may become interested in competitive debate. My conclusion anticipates a future of debate that has in many instances already arrived, decoupled from specters of presumption and focused upon the encounter between advocacy and critical thought.

II. LANGUAGE-KRITIKS WITHOUT ALTERNATIVES

A language-kritik is an argument about the language that is used by an affirmative case. The first major component of such a kritik is the link, which may take two forms. First, the link may argue that the affirmative language fails to represent its object. In other words, the affirmative claims to be about something and yet does not coherently represent what it is about because a crucial word or concept is ill-posed. Second, the link may argue that the affirmative language offends ethical norms that the debate community should uphold.

The second major component of such a kritik is its implication. Some discussion of implications is important, because it is different from the typical way in which debaters think of impacts, and yet is often conflated with impacts. The implication of a kritik that uses the first kind of link may be that the affirmative incoherence amounts to a complete unintelligibility, and that the affirmative does not get access to its solvency and advantage claims because they are founded upon this unintelligibility. The implication of a kritik that uses the second kind of link may be that the affirmative team should be rejected as a means of enforcing norms of morality and cultural sensitivity among the debate community. For either case, I call this second component an implication and not an impact because debaters think about impacts as empirical events that follow upon a causal chain. However, the first kind of implication follows logically and not causally from the link. The second kind of implication has offensiveness as its impact: this is already implied as part of the link argument, which is based on a normative judgment and not an empirical-causal evaluation. The implication component just recommends rejecting the team as the appropriate punishment for the offense.

Consider an example of a kritik that is read by a negative team against an affirmative team, where the affirmative advocates a plan to empower Native Americans with the authority to make their own decisions concerning energy policy on their land. The kritik example I will use combines both kinds of links and both kinds of implications, since such a kritik is possible and using such an example will maintain brevity. The negative kritik argues that the term ‘Native American’ is a colonial construct that does not designate the community of indigenous people who are affected by the affirmative harms (first link), and it logically follows that the affirmative does not access its advantages because they are founded on a misrepresentation of the recipients of these advantages (first implication). Moreover, the term “Native American” is a racist term that obscures the primordial relationship of an indigenous culture with a land that was not ‘American’ until a colonizing force designated it as such (link and impact). A team that uses such racist language should be punished by voting down the team (second implication).

Suppose that during cross-examination of the first negative speaker the affirmative team asks: “what is the alternative to your kritik?” In the debate community, this question is currently asked of any kritik whatsoever. It is a question that reeks of urgency and desperation (“Well, what else are we to do?!”), complemented by a lack of direct engagement with either of the core parts that can make a kritik a coherent argument, i.e. its link and implication. Such a question asks of kritik debaters that they produce a third component to their

argument, a component that is not a necessary feature of all kritiks, and puts the kritik on trial for its lack of this third component.

In this cross-examination, the debater from the negative team may respond roughly as follows: “Why does my kritik need an alternative? If my first link and implication is true, then the current presentation of your case is incoherent. I do not need to present an alternative to a case that is functionally gibberish, because, assuming my implication is exhaustive of your entire case, there is no default reason for a judge to prefer such complete incoherence. I also don’t need to propose an alternative to your racist language, because punishing teams that speak such language takes priority over the role-playing content that you advance as your advantages within the debate game. Your utterances are a kind of assault upon others in the room: such violence demands exclusive focus with a resolute ‘no!’ and not any muddling ‘well, this instead’ sort of comparisons.”

Let’s consider what the negative kritik debater might mean concerning the racist-language aspect of this kritik and why an alternative proposal is not required. This argument uses a characterization of a typically-unfolding debate round as a sort of game, arguing that offensive language that is uttered during the course of the game requires prior and exclusive attention. The justification of priority is based on the fact that affirmative teams (in typical examples of plan-based policy affirmative cases) do not really achieve their advantages, but instead just simulate or roleplay the achievement of their advantages. The kritik debater argues that, as simulations, the affirmative harms are not real, whereas the harm that is generated by using offensive language is manifest in the immediate context of the debate round. The kritik debater’s perspective on this priority can be illustrated with an analogy. If a group of people have decided to play Monopoly, and the person who roleplays the banker uses racist language as he distributes the currency and property of the game, then another player is justified in upending the entire table of neatly-ordered monopoly items. The game is over and for the offending player to state “but I am the banker, you have no alternative but to keep buying houses from me” misses the point of the extremity of the violation. On the kritik debater’s view, it is time to emphasize that the activity is just a game, the houses are just simulations of houses in the form of green plastic pieces, and the main focus should be upon what the players do to each other with their language while in the course of playing such games.

The aforementioned explanation might unpack what some kritik debaters mean when they state that ‘fiat is an illusion’ as a means for driving a wedge between the affirmative advocacy and any appeal that the affirmative advantages might have. The affirmative team might respond that the claim that harms discussed in

the course of a debate round are unreal is trivially true: any discussion of a harm is unreal because it is not the event of the described harms, and yet any discussion of a harm also represents something that is an empirically-possible and thus real (albeit remote) harm. To prepare ourselves for an understanding of these harms in cases where it may be less remote, even the discussion of the simulated harm can be important.

This argument has some merit. Many kritik debaters get away with too much by completely bypassing discussion of the harms discussed by an affirmative case. Some of the more critically-inclined and policy-averse members of the debate community may discount the significance of an affirmative case that discusses often-circulated 'big stick' advantages such as preserving hegemony, stopping nuclear proliferation, or averting economic decline in rounds where a negative debate team reads a kritik. Asserting that 'fiat is an illusion' as a reason for why the affirmative advantages do not matter may have fallen out of custom, but debaters who privilege their kritik harms as being visceral and real, and who characterize the affirmative advantages as being comparatively meaningless and unreal are nevertheless making use of illusory-fiat distinctions that deploy trivial truths about the reality of harms. While the advantage-harms discussed by a 'big stick' affirmative case may be unreal in the sense that they are only posited as the contents of a discussion among debaters, whether those same harms are real as an empirical possibility is determined by the merits of the evidence and arguments that both sides advance concerning such advantages. Therefore an affirmative case is not completely void of significance when confronted with a kritik, yet the affirmative case cannot simply overwhelm a kritik with the 'try or die' appeal of non-remote, urgent, and extreme advantages. The affirmative can argue for the educational merits of discussing their original advantages within the remote discussion-space of debate. Although this is not the same as weighing the impacts of the advantages themselves, it is substantive and can be compared with the exclusion of such discussions that would follow if a negative kritik team is allowed to exclusively draw attention just to the non-remote discursive harms of their kritik. Strategically, both affirmative and negative debaters will argue that only their harms matter, seeking a distinct way of excluding consideration of the opposing side. Negative kritik debaters cannot completely exclude the affirmative advantages with an appeal that only the kritik debater discusses real harms, and affirmative policy debaters cannot dismiss the kritik implications with an inflated appeal to the extreme urgency of their discussed harms.

An affirmative team can refute an alternative-less kritik by refuting either of its two main components: the link or the implication. The affirmative can argue that there is no link or that the affirmative is a link turn to the kritik. The affirmative

can also argue that the implication to the kritik does not follow from the link or that the implication is not exhaustive. For example, for the first implication of our language-kritik, the affirmative can make use of pragmatist and linguistic theories to argue that a representation can be meaningful and useful even when it does not strictly designate its object, and that the affirmative case is therefore not lacking in sense. The point is that answering an alternative-less kritik becomes less daunting when debaters focus upon features that such kritiks do have, instead of trying to take such kritiks to task because of features that such kritiks do not need to have.

III. EPISTEME-KRITIKS WITHOUT ALTERNATIVES

Debaters today call their critical arguments ‘kritiks’ because, during the initial circulation of such arguments in intercollegiate debate, William Shanahan persisted with the untranslated name for such arguments as a way of evoking their German philosophical lineage.⁵ Besides making it flamboyantly clear that such arguments involved a kind of thought that was foreign to policy debate traditionalists, the word ‘kritik’ as a name for a critical debate argument established a stark contrast with other features of debate that certainly involved critique, criticism, and critical thinking, yet were not connected to the critical thought found in the philosophical traditions of the European continent. A judge can give an oral critique at the end of a round, any argument in a debate can be a criticism of any other argument, a debater will typically make use of critical thinking skills, and debaters who hope to win a round on a politics link turn certainly think that their argument is (extremely!) critical, but none of these examples count as a kritik. A kritik is distinct because it targets and agitates the assumptions of thinking itself.

I deliberately choose to rename a kind of kritik with which debaters may be familiar as an ‘episteme-kritik.’ I do not expect debaters to start writing ‘EK’ instead of ‘K’ on top of their flow sheets. I also realize that the hyphenated fusion of French and German (‘episteme’ is French for what we may translate as ‘system of thought’) is a bit awkward. Besides, the immensely vast and completely unique criticism that Heidegger bears upon the history of all thought (the way we have arrived at understanding anything whatsoever) means that the German ‘K’ should be prominent because it is perhaps *the* criticism that any thinker should eventually confront. Nevertheless, I think ‘episteme-kritik’ is a worthwhile term because it evokes the French part of the continental tradition that followed upon the lessons

⁵ See Shanahan, *supra* note 1. (“Leaving Kritik, criticism or critique, partially untranslated underscores its German lineage and reaps untold aesthetic rewards.”).

of Heidegger, notably with Michel Foucault.⁶ Kritik debates that use Foucault are more plural and local in their analysis of misleading and distorted systems of thought than debates that use Heidegger, the juggernaut genealogist who thought things started to go completely awry with the presocratics. If the kritik shot into the debate world like a piercing arrow, then the episteme-kritik is the arrow that splices that arrow, targeting core assumptions with a similar precision, but with a French and German lineage. The contemporary debater who advances a kritik of the capitalist-paradigm, of so-called truths that are produced under the guise of expertise, or of the role of power upon identity-formation is using what I would call an episteme-kritik due to its lineage in Michel Foucault, who in turn is indebted to Martin Heidegger. Even a kritik that just uses the philosophy of Heidegger is an episteme-kritik because the link evidence for the argument will probably come from secondary literature that applies Heidegger to particular, local disciplines. Given further developments in thought, further ruptures may be in order such that even the name ‘episteme-kritik’ fails to evoke the core meta-critical thinkers. Provisionally, I will use the name ‘episteme-kritik’ and present an example. The episteme-kritik is a criticism of the assumptions of an affirmative case. Like a language-kritik, the episteme-kritik will consist of a link and an implication. It will also have an external impact.

Consider the example of an episteme-kritik that is read by a negative team against an affirmative team, where the affirmative advocates a plan to build modern wind turbines for harnessing wind energy. The affirmative claims that using these turbines would have the advantage of providing United States citizens with abundant and cheap energy. The negative uses the philosophy of Heidegger to argue that the affirmative advocacy is based upon assumptions that misrelate ourselves to the world (link). Such misrelations are also distortions of meaning that diminish the ways in which we can understand anything, including the affirmative case (implication). Finally, such distortions produce habits of understanding the world that are violent and a failure of human potential (external impact).

The reasoning within the link evidence states that a correct description of what is universal for all humans involves characterizing ourselves as always being immersed or “thrown” into a world, where we acquire all understanding whatsoever from the way in which we disclose meanings while comporting ourselves to this world. When we relate ourselves to the world as if we are separated from it, the world becomes a calculable object and the way in which it can inspire reverence and certain engaged comportments recedes: only the way in

⁶ MICHEL FOUCAULT, *THE ORDER OF THINGS* 1973 (trans. R.D. Laing).

which the world functions as a stock of resources is disclosed. As secondary literature that applies Heidegger to the domain of energy policy, the link evidence explains that treating nature as a stock of standing-reserve energy for our purposes is an instance of such mistaken assumptions. The implication evidence explains that such a self-conception means treating ourselves as if we are subjects who can effectively order a world of objects in a singular, utility-driven disclosure of meaning. This mode of disclosure is mistaken: the world seems as just what we make it out to be, and humans are stuck in a feedback loop by which our understanding only accepts calculable representations as being relevant. Heidegger thinks that this kind of thought is so pervasive that we are oblivious of it, attending instead to what we assume are perfectly natural operations of thought within such a system. The external impact evidence explains that when we misconstrue ourselves as being subjects in command of a perfectly ordered stock of objects, we assume that we can exert power over our world, which is a dangerous mindset. Humility, open-ness, and reverence is replaced with violence. Humans who think as commanding subjects and misunderstand their world as a static object have a proclivity to try to marshal further arrays of stock towards calculable ends, such as when soldiers are sent to war.

Suppose that, in cross-examination of the first negative speaker, the affirmative team asks: “What is the alternative to your kritik?” The negative team may respond roughly as follows: “Why does my kritik need an alternative? It is an episteme-kritik, which means that it criticizes the system of thought that forms the assumptions of your advocacy and argues that they are misleading and harmful.” The affirmative may press further and ask “So... we should just think?” The negative might then say, “Your incredulity suggests that you are missing the point of what you call the thoughts of my episteme-kritik. The components of the episteme-kritik are not passive observations. They consist of arguments with implications and impacts concerning your advocacy. We do not just think about your assumptions. Instead, we characterize your assumptions and explain the distortions that are produced by them. The implication of our kritik follows conceptually and not causally from the assumptions that you deploy. The impact of our kritik is a description of the worldview to which someone in this system of thought is conceptually directed. This impact is an empirical possibility in any case where someone upholds such a system of thought.”

Affirmative teams today have a few typical responses to an episteme-kritik. One common response is to invoke the extreme impacts of the affirmative-advantages as a reason to ‘try or die’ for the affirmative case. As mentioned with the example of a language-kritik, fiat is illusory. Any debater with a meta-awareness of what they are doing while participating in a debate activity will recognize that this is

true but also trivially true. A debater who does not recognize that fiat is illusory has either succumbed to the delusions of their own method acting (the worry that Socrates had about students who would recite epic poetry)⁷ or is suffering from a severe psychosis (debaters are not, at the time of a debate round, world leaders who preside over buttons that would launch defcon 1, defcon 2, and so forth). The significance of the trivial truth that fiat is illusory is that all harms discussed by debaters are not real in the sense that they are remote, even if they are real as an empirical possibility for anyone who could have the power to ‘try’ to avert such harms. The only exception to this are harms that debaters can specify as being inflicted upon the participants of the particular debate round because of the debate round itself. For a negative kritik debater, a reminder that ‘fiat is illusory’ cannot eliminate the relevance of the affirmative advantages because an affirmative team can still try to leverage the merits of discussing and understanding their advantages against the kritik, but it can remove the intended startling effect of the ‘try or die’ response. There is no imminent death in a debate round, which is why epistemic issues concerning the methodology and assumptions of an affirmative team’s advocacy should have parity with the discussion of harms. If the assumptions of the affirmative team have implications that distort how the affirmative purports to understand its own harms, then the kritik argument sequences first. If the negative team can prove that the influence of these assumptions implicates the entirety of the case, then the negative kritik may win the round. When critical challenges are raised about the worldview, conceptual mechanics, and various philosophical assumptions of an affirmative advocacy, the current unfortunate trend is for affirmative teams to bypass these questions with the ‘try or die’ assertion. This turns debaters into cheerleaders for their own harms, hoping to eliminate philosophical challenges by drowning them out with loud cheers instead of engaging those challenges with debate.

Affirmative teams may also respond to a kritik with a permutation. A couple of often-circulated permutations are “do the plan and all the non-competitive parts of the kritik” and “do the plan and the kritik.” There are a few problems with such permutations. The first permutation is a description of a permutation and not a permutation. It describes the class of entities that it would like to include (the plan and some unspecified-portions of the kritik), along with the aspiration to combine them, somehow. It is reminiscent of a scene in the film *Amadeus*, where Emperor Joseph II attempts to offer a critical response to Mozart’s performance by claiming that it has “too many notes” and that he should cut out a few of them.

⁷ Plato, *The Republic*, in COMPLETE WORKS 1997, at 1017 (trans. G.M.A. Grube and C.D.C. Reeve) (“The young can’t distinguish what is allegorical from what isn’t, and the opinions they absorb at that age are hard to erase and apt to become unalterable.”).

Mozart suspects that the emperor lacks a substantive criticism and asks the emperor: “Which few did you have in mind, your Majesty?” A negative kritik debater may similarly challenge an affirmative team to specify which aspects of the link and implication of the kritik the affirmative would like to include as an actual permutation. A placeholder for a permutation is not a permutation, nor is the anticipation of a permutation.

The second problem with such permutations applies to both of the permutations I have just mentioned. For many kritik rounds, the use of a permutation altogether is a mistake. The function of a permutation against a counterplan is to test whether a counterplan by itself is more desirable than some combination of the plan along with all of the counterplan, some of the counterplan, or some other action that is not stated in the counterplan but would achieve the same net benefit. The desirability of the counterplan is determined by comparing all the harms of the round discussed by each side and then accounting for the significance of each along with the extent to which a given team solves such harms. If the counterplan alone is more net beneficial than the plan or any permutation that an affirmative team pursues, then the negative can win such a round. The idea of a permutation in a kritik round makes it seem that harms are the focus of a kritik round, yet often they are not. The affirmative debater who advances a permutation in a kritik round thinks that the kritik is trying to solve for something broad in an unspecified way (these are the seeds of the ‘utopian fiat’ and ‘floating PIC’ characterization of kritiks) while completely excluding the affirmative. The affirmative then tries to get its case back by combining itself with the kritik via a permutation. However, the kind of epistemic kritik I have described is mainly concerned with thinking and not impacts. Such a kritik indicates a criticism that has an implication for the intelligibility of the affirmative case. This kind of kritik debater is not trying to pave a parallel road to the affirmative advantages and then get there with a faster and better bicycle. Instead, this kind of kritik debater is thinking just about the affirmative bicycle and the path it intends to follow, indicating its lack of spokes, gears, and direction.

Perhaps permutations in some kritik rounds are intelligible and strategically useful. I have argued that alternatives are not a requirement for all kritiks. However, a kritik without an alternative is only a complete argument when its criticism of language or assumptions achieves a tactically devastating implication concerning the coherence of the affirmative advocacy. Kritik debaters will often choose not to be the gloomy harbingers of rejection, advocating an alternative worldview that avoids the implications that are indicated by their criticism of the affirmative. Kritik debaters can also choose to articulate some external impact to their kritik (the Heidegger episteme-kritik I have described does this, although the

argument does not require this external impact in order to be complete). In such cases a permutation that tries to combine the plan with some version of the alternative, or the plan with some advocacy that resolves the external impact of the kritik can be strategically useful and justified. A permutation can make sense in a kritik round where the implications of the kritik involve somehow-achieved alternatives or external impacts.

A negative kritik team may in some cases offer but not specify an alternative. This is because the research of the negative kritik includes gestures towards alternative possibilities, and so the discussion of alternative ways of thinking is salient, yet these alternatives cannot be delineated in specified contours because such specification would violate the nature of the criticism. For example, the Heidegger debater may argue that asking for an alternative that readily submits to calculable comparisons is a function of the kind of subject-object thinking that is criticized by the kritik. In this situation, truth and fairness are in conflict. The negative team's argument may be true, but the negative team's decision to leverage the alternative aspect of their kritik against the affirmative is nebulous and thus apparently unfair for the affirmative. Debate traditionalists might argue that this kind of situation is grounds for excluding kritiks from debates, but I think this move cannot work because kritiks cannot be neatly distinguished from various other kinds of arguments that have a link and an implication. Instead, affirmatives can deal with such situations with well-formed permutations. Another option would be to argue that the negative should not be able to leverage the full weight of an open-ended alternative against the affirmative, and that the negative should instead only win if the implication of the kritik is of such a nature that it takes out the entire affirmative advocacy, without any residue.

An affirmative team can refute an alternative-less episteme-kritik by refuting either of its two main components. The affirmative can argue that the kritik has no link because it does not deploy the assumptions that are indicated by the negative team. Assumptions are tricky because they are conceptual and not empirical, and only the empirical lends itself to indication via observation. It is up to the negative team to indicate that troubling assumptions have been deployed in a round given symptoms that are manifest during the course of the debate. An affirmative team that effectively debates the link of an episteme-kritik may pressure the negative team to demonstrate that such links occur in the particular instance of the affirmative advocacy, which is different from describing a link and then asserting a kind of 'link by association' or 'link of omission.' The affirmative team can also try to link turn the kritik – such link turns will vary given the types of affirmative cases that are advocated. Finally, the affirmative can refute the conceptual

components of the kritik to argue that the devastating implication does not necessarily follow, or that it can be avoided.

IV. NORMS OF THE DEBATE COMMUNITY

Kritiks have achieved a niche as a canonical type of debate argument in cross-examination debate, but the debate community has only embraced kritik arguments by treating them like something with which the debate community was already familiar. Debaters like to pave roads that take us to fixed destinations. At the end of those destinations, debaters like to give a big fireworks show. This is one kind of debate, Thrasymachus-like, consisting of momentum and explosiveness—but it is also a kind of debate that has forgotten how to think. Why does the debate community assume that kritik arguments must have alternatives?

One reason may be that the educational disciplines that are typically studied by debaters condition many debaters to think in terms of impacts. If members of the debate community predominantly study political science, economics, history, and other disciplines of that ilk, then the norms of the debate community may be an expression of what matters to those disciplines. Philosophy majors learn to painstakingly consider the conceptual components of an argument. Non-philosophers may roll their eyes and think that this is tedious and irrelevant, but philosophers will insist that bypassing such work may result in edifices of thought that are built upon faulty or mangled knowledge. For a debater who is a philosopher, tracing the conceptual connections of an argument can be as interesting as following the internal links to a disadvantage, and “*quod erat demonstratum*” can be as profoundly devastating as “we outweigh!” Debaters who are philosophy majors may also share an interest in history, but such an interest operates as a genealogy of concepts as they have been deployed at various times under various epistemes, and not merely an account of momentous events. Such debaters wonder what assumptions might operate in the undercurrents of an advocacy that is presented in a current debate as part of the dominant episteme. They may also be receptive to critical thought because their majors are either not-just philosophy, or not philosophy at all: what drives a kritik debater may come from disciplines in the humanities that encourage a healthy suspicion of cultural norms and that teach tools of interpretation for challenging various assumptions that may underlie a given advocacy. Finally, debaters may have apt intuitions about how thoughts can be contingent upon implicit assumptions given features of their own experiences that they render applicable as arguments within a debate round.

The strategic use of kritiks without alternatives may also appeal to debaters from disciplines outside of the humanities. A student who chooses a major such as pre-law or business may appreciate the finality with which a sound critical argument can merit exclusive consideration, regardless of a comparison of harms to advocated alternatives. If an issue is demonstrated as being procedurally prior to a different and later kind of issue, it can be inappropriate and distracting for that later issue to seep into the hearing that considers the current issue. If a contract is ill-posed then the entire contract may be null and void, which is a good reason for carefully formulating everything with precision the first time around. Debaters who major in science may also find kritiks without alternatives appealing because just understanding something completely can be valuable. For example, a physics major may find zeal in researching and using chaos theory to argue that the affirmative advocacy only seems beneficial because it is endorsed within a frame that bears a hopelessly localized scale. In this case, the butterfly effect⁸ is the physicist's Schopenhauer.⁹

The norms of the debate community may also discount kritiks without alternatives because debate arguments increasingly only seem to matter if they are connected (or shackled) to an impact. This works in both directions: the end-game of a typical policy argument will be the harm of a disastrous impact (nuclear war, runaway global warming, etc). The end-game of many typical kritik arguments

⁸ One interpretation of the theory of the butterfly effect may state that the ultimate merits of any action are indeterminate because, on a cosmic scale, even a minor and seemingly insignificant action can cause a chain of events that is chaotic and unpredictable. Cross-examination debaters have used theories of chaos and physics as kritiks. Whether the butterfly effect necessarily means unpredictable chaos is up for debate, and thus the evidence for links and implications can go in a few directions. *See, e.g.,* JAMES GLEICK, *CHAOS* 1987.

⁹ ARTHUR SCHOPENHAUER, *THE WORLD AS WILL AND REPRESENTATION* 1969 (2nd ed., trans. E.F.J. Payne). Schopenhauer argues that all particular desires and actions are pointless because they are merely the cyclical and endless expressions of a single metaphysical world of will in our experienced world of empirical representations. Cross-examination debaters have used Schopenhauer's philosophy as a kritik. A passage that exemplifies Schopenhauer's unique and pessimistic style can be found on pages 321–22: "It is really incredible how meaningless and insignificant when seen from without, and how dull and senseless when felt from within, is the course of life of the great majority of men. It is weary longing and worrying, a dreamlike staggering through the four ages of life to death, accompanied by a series of trivial thoughts. They are like clockwork that is wound up and goes without knowing why. Every time a man is begotten and born the clock of human life is wound up anew, to repeat once more its same old tune that has already been played innumerable times, movement by movement and measure by measure, with insignificant variations. Every individual, every human apparition and its course in life, is only one more short dream of the endless spirit of nature, of the persistent will-to-live, is only one more fleeting form, playfully sketched by it on its infinite page, space and time; it is allowed to exist for a short while that is infinitesimal compared with these, and is then effaced, to make new room."

involves a race to a harm that is at the bottom, asserting that the kritik is cardinally concerned with what is the root cause for all other impacts (for example, that the othering of non-human nature is the root cause of all other forms of violence, or that the violence of treating the black body as an object is the root cause of all other oppression). Debaters who present their arguments in this way will sometimes win, again as cheerleaders, by rooting for the part of the 'root causes' ladder that is one rung lower than the other team. In such debates, what can be missing is a more in-depth debate concerning the parts in between initial links and impacted harms. When the issue of an alternative dominates a kritik debate the focus can quickly and unfortunately turn to a brute war of attrition between impacts: weighing, comparing, and cheering.

Do kritiks function like a kind of counterplan? In a mangled way perhaps they do, in cases where the kritik asserts an allegiance to some utopian ideal that also soaks up the affirmative advantages along with it, promising the judge that just not-doing the affirmative will enable all debaters to access such heavenly manna. But in other cases the kritik has an alternative as something to strive or hope for, yet presenting an alternative in a neatly-encapsulated way is not possible, or the alternative is not necessary for the kritik to win with its implication. The assumption that all kritiks must have an alternative is a confused adaptation of basic counterplan theory to kritik theory, which is probably influenced by the impact-oriented way that debaters tend to think, which in turn may have something to do with the disciplines that debaters typically study.

V. CONCLUSION

One with a traditional view of debate might argue that if a kritik debater does not advocate an alternative, then he or she should be forced to defend the status quo. Our assumptions regarding affirmative and negative burdens on such issues should change. Affirmative cases that are unhinged from, but still responsive to the resolution are increasingly frequent. With the college resolution this year, I have judged or heard about affirmative cases that that offered a translation of the resolution, that counterfactually affirmed the resolution, or that functionally negated one part of the resolution while, in spirit, affirming another aspect. Affirmative debaters today are meta-debaters who make the resolution the starting point for discussion. They do not always obey the mandate to advance unique, topical cases under the jurisdiction of the resolution. So be it: meta-debaters on the negative can and will argue framework in many of those instances. The debate community as a whole seems to be more self-reflexive and courageous, sometimes delving into the game while at other times lobbying for what they think should be at the foreground of discussion. Debaters are thinkers who

encounter each other: they don't need to assign predetermined roles to debaters ("the aff represents something new! The neg represents the old!"). Debate rounds on the college topic this year have consistently been about energy, but the gestalt encounter of many of these debates has not been reducible to traditional background-burdens. Instead, the encounter between debaters has involved some kind of advocacy and the other team's criticism of the advocacy. My tentative point is just that if affirmative debaters are finding inspiration by responding to and not necessarily affirming a resolution, then negative debaters should reciprocally be unshackled from the traditional dead weight of the status quo.

The critical arguments that made their initial mark in the debate community as 'kritiks' have settled into an accepted role in the high school cross-examination and college NDT debate communities at a cost. A prevailing community norm assumes that a kritik must have an alternative. But not all kritiks need an alternative because a kritik can be a complete and strategically useful argument just by having a link and an implication. I do not attempt to classify and discuss all types of kritik arguments, and I just use two types of kritiks that can be run by a negative team against an affirmative advocacy as examples. In this sense, my aspirations are fairly modest. The less modest counterpart is this: if having a link and an implication for an argument can be sufficient for a strategically devastating kritik, and if such kritiks can be researched using various disciplines that bear upon the assumptions of any advocacy, then these minimal but strategically deadly criteria might mean that a kritik can be generated in any conceivable format of debate and no rules could categorically exclude it. It does not matter if the argument is labeled in fidelity with its initial rupture upon debate as a 'kritik,' whether one indulges my esoteric use of 'episteme-kritik,' or if a cunning debater manages to get the argument past the judicial rules of their preferred format of debate by just calling it a 'criticism': critical arguments have a possible role in any debate round.

Critical arguments are not a force that is foreign to debate; they exert their pressure because they are immanent and already there, awaiting indication and a lingering kind of consideration that cannot be held hostage to the supposed urgency of impact-alternative comparisons. We can compare the *Holzweg* described by Heidegger with the path that is described by the French philosopher Georges Bataille. Bataille's work and intersecting interests spanned multiple disciplines such as economics, philosophy, eroticism, and surrealism. In volume one of *The Accursed Share*, Bataille wrote about the underestimated amount of energy that is at play at any site that we may attempt to comprehensively account for and maintain by treating it as a closed system. Bataille discusses a path that a gardener tries to keep clear of teeming life. Such attempts all eventually fail: even

a path laid out in asphalt would fend off but not eliminate inevitable pressures, encroachments, and disruptions.¹⁰ Bataille's paths resist regulation and maintenance. Heidegger's paths defy prescription and reduction. For Bataille and Heidegger, the ideal of a neatly demarcated way is not possible or preferable. Contemporary critical debate arguments can function in a similar manner.

¹⁰ GEORGES BATAILLE, I THE ACCURSED SHARE 1988, at 29–30 (2nd ed., trans. Robert Hurley).

A CASE AGAINST PUNISHMENT THEORY IN LD DEBATE: OBJECTIONS TO “EMO” DEBATE

BY RICHARD COLLING*

*Richard Colling received a B.A., from the University of Houston. He is currently the Director of Forensics, Stony Point High School, and Partner & Co-Founder of The Forensics Files.

It is often said that Americans have short memories and short attention spans. This seems as true for American debaters as any other group. Many high school Lincoln-Douglas (LD) debaters seem to think punishment theory, the idea that opponents should lose rounds for running allegedly abusive positions, is new and a response to ‘abusive’ arguments run by affirmatives in the past decade. The most often cited examples of abusive arguments run by affirmatives in LD rounds are pre-standards or *a priories*. It may be correct that these arguments sparked the emergence and prevalence of punishment theory currently utilized in LD debate, but punishment theory is nothing new. In an excellent and still very relevant article, Doug Sigel wrote the following in 1985, “Even *if* the arguments in favor of punishment are true, it seems that there are serious problems with its use in debate. These concerns can arguably lead judges to reject punishment even if they agree that bad debate practices have occurred.”¹¹

In that article, Sigel made an extremely strong case for the destructive nature of punishment theory in competitive interscholastic debate. This article contributes to the thesis that punishment theory is destructive to academic debate by arguing that punishment theory is disingenuous; undermines clashing skills; amounts to an *ad hominem* attack; and is a bad fit for LD debate. Also, abuse is extremely rare. Punishment undermines the purposes of debate; it is elitist; and contrary to popular belief, there are rules for debate. I conclude by answering many of the common defenses of theory that I have encountered in my many discussions on punishment theory with friends and colleagues. I will begin with the story of a round I recently witnessed that descended into what is commonly considered the “race to the bottom” in punishment theory.

¹¹ Doug Sigel, *Punishment: Does It Fit the Crime?*, DEBATEERS’ RESEARCH GUIDE (1985), available at <http://groups.wfu.edu/debate/MiscSites/DRGArticles/Sigel985Water.htm>.

I

“MA MA SE, MA MA SA, MA MA COO SA”

Just over a year ago, I took my team to one of the top annual tournaments in the country. I had two debaters competing and I brought brand new novices with me to watch rounds. I did not receive a ballot for the last preliminary round so I escorted my two novices to a round between two, then-undefeated LD debaters believing my novices would be able to watch debate at an elite level. The affirmative ran a seemingly unobjectionable case, but the negative had many objections. The negative ran multiple theoretical objections to the affirmative case. The affirmative responded by extending a bit of substance, perhaps a presumption argument if memory serves, and then responded with multiple meta-theoretical responses. The negative stood up for the rebuttable and announced he would be running all new theory. I looked at the judge who is much younger and far cooler looking than me. He did not seem to flinch. I thought, “Clearly debate has surpassed me.” My novices had long since stopped flowing, and I was worried I was going to lose them. The negative ran his new theory in response to the meta-theory (meta-meta-theory, if you will) but dropped the one substantive argument the affirmative had extended. The affirmative stood up for the second rebuttal and extended the one piece of substance and then ran new theory or tried to extend his meta-theory. The judge voted on the one piece of substance extended through the round saying “thank god you extended substance or I would have been here three hours sorting through this mess.” I confess I felt relief that perhaps I was not yet the fogey I am sure to become.

Since then I have seen many elite rounds including finals of the just-finished Texas Forensics Association State Tournament and have realized that punishment theory is not run in every top round, but it is far from rare. I posit that every effort should be made to make sure punishment theory becomes extremely rare if not completely extinct. Punishment theory turned the described round between two clearly amazing young debaters into something a comprehensible as the above-quoted Michael Jackson lyric.

II

“WELL, THAT’S ALRIGHT BECAUSE I LOVE THE WAY YOU LIE”

In my experience, punishment theory is far from a genuine check on abuse. It is run as a tool for ballot collection. If an affirmative does not have a plan, the punishment theory debater runs ‘affirmative must have plans for me to get offense.’ If the affirmative runs a plan the negative runs ‘affirmatives having plans precludes me from getting offense.’ If the affirmative has a solvency

advocate the negative will argue that ‘affirmatives cannot have solvency advocates as this explodes my research burden’ and if the affirmative does not have a solvency advocate the negative will run ‘the affirmative must have a solvency advocate for my link stories.’ It should be clear just from these few examples of common theoretical objections that it is not run out of some noble concern for improving debate. It is run by debaters who use punishment theory as a means to the end of the ballot.

If it is not clear from those examples, consider that theory is run against the most stock affirmative cases. Many affirmatives have abandoned the use of necessary but insufficient burdens (NIBs) or pre-standard arguments in their cases in an attempt to avoid theoretical objections. However, even with a case as traditional as possible (i.e. value, criterion, offense back to the criterion), debaters hear theoretical objections. So even when affirmatives make every effort to ‘play by the rules,’ they can and do lose to punishment theory. This demonstrates that punishment theory can be run in any round, against any position, for any reason. Punishment theory is not a check on abuse. It is a check on affirming.

Another reason that I view punishment theory as disingenuous, at least in LD debate, is because rarely if ever is the position that the abuse is supposed to prevent the negative from running ran to demonstrate the actual abuse. For example, the negative might object that the lack of a plan precludes them from running a disadvantage and thereby precludes the negative from gaining offense. However, the negative rarely runs a disadvantage in combination with the theory. The point of doing so would be to demonstrate actual abuse in the round. When the affirmative de-links from the disadvantage in the way the negative said the affirmative would, this would warrant the theoretical objection. The lack of bothering with attempts to provide empirical evidence of abuse suggests theory is more a means of spreading the AC out of the round than an effort to check abusive practices. In other words, theory becomes an almost no-risk strategy for the negative. They can dedicate all their time to theoretical objections rather than risk losing theory and their disadvantage. Additionally, if pressed, many negatives could not name a prior round they had observed where an affirmative debater has delinked from a position in the way the negative claims the affirmative will delink.

The negative debater might object to this arguing that he or she should not have to waste time running a position that the affirmative can simply ‘no-link’ out of. But if the affirmative does ‘no-link’ it means the negative is more likely to win the punishment theory shell. The negative debater could also object that forcing them to run a disadvantage that clearly does not link to the AC in order to warrant their

theory shell is a bad idea because the affirmative will simply grant the links and attack the other parts of the disadvantage shell in order to avoid biting into the punishment theory shell. However, granting links into a disadvantage is a high-risk proposition for affirmatives, as this makes it very possible for the negative to outweigh the benefits of affirming. Even if the disadvantage in reality does not link to the AC, when the links are granted, most judges will not intervene to de-link an AC from a disadvantage or kritik with conceded links. The argument that the negative should not have to ‘waste their time’ to run a position the affirmative is likely to ‘no-link’ out of is problematic because it grants that the negative has plenty of other arguments to run against the AC. Punishment theory operates under the notion that a case is so abusive that it steals ground from the opponent leaving the opponent with little to run but punishment theory. If the initiator of punishment theory has plenty of other arguments to run against their opponent, then there is not a need to run punishment theory. This again shows punishment theory is just a means to the ballot and not a mechanism meant to check abuse.

The final reason I view theory as disingenuous is because in years of judging rounds in which theory was run, and more rounds where I watched such rounds as an observer, not once have I seen a justification for the perspective that punishment theory is proper. I have yet to see a debater justify the offense/defense paradigm, the punishment paradigm, or the notion that debate is merely a game that must be played fairly. Punishment theory is used to exploit *tabula rasa* and other friendly judges where debaters win on the flow by extending arguments and precluding other arguments. It seems peculiar that if punishment were actually meant as a check on abuse, debaters running punishment theory would so casually or frequently omit the grounding for the perspective of their punishment theory. This is not a trivial objection, as debaters who are running innocuous positions are losing to punishment theory. These debaters can be left wondering why, when they did everything their coach advised, they lost the round for such a reason. If abuse matters so much, it should be clear to them at the end of the round exactly why theory matters.

III

***“WELL THERE'S NOTHING TO LOSE, AND THERE'S NOTHING TO PROVE,
I'LL BE DANCING WITH MYSELF”***

Punishment theory undermines a central tenet of debate: clashing. Punishment theory is run against virtually any and all positions regardless of how innocuous or stock. Debaters who run punishment theory usually almost completely avoid clashing to any great extent with the affirmative case. The typical punishment theory NC may have a substantive position then one-to-three punishment theory

shells, then perhaps a generic turn or defensive response to the AC. The clear strategy is to force the affirmative to eschew extending the AC by forcing the AC to tackle so many preclusionary positions. Already, clash is undermined in the round.

The response to theory, as demonstrated in Part I, is not go line by line through the theory. Doing so would rarely be strategic for the affirmative. This is because this would bog the affirmative down answering something they are unlikely to gain offense from and take away desperately needed time to extend the AC for offense. Instead, theory is most often answered with something called ‘meta-theory’ that explains why the punishment theory initiated by the NC is itself bad or unfair or hurts education. Clearly, this is not ‘clashing.’ It is the avoidance of clashing. The negative then often responds with some kind of ‘meta-meta-theory,’ which allegedly means the affirmative should be punished for running their meta-theory. This approach is so common that now negatives are attempting to preclude meta-theory answers to negative punishment theory with arguments about why such races to the bottom are themselves destructive or abusive.

Interestingly, in the decades since Doug Sigel wrote his article, there has been little improvement in responding to theory. Mr. Sigel describes this exact phenomenon in 1985 when he wrote, “A typical response to punishment arguments will be to charge your accuser with bad practices too. The affirmative may argue for punishing the negative who runs conditional counterplans. One response by the negative may be to indict the affirmative on the grounds that the plan is vague and/or contains severability provisions. At this point the judge has two guilty parties and has to decide who to punish. There is no logical process to sort out the conflicting whines about who destroyed the debate first. Judges quickly become tired of having to decide rounds like this.”¹²

As long as we, as a community, have anything less than the highest possible threshold for punishment theory, there will be no need for debaters to bother with clashing. As previously mentioned, any and every practice can be considered objectionable by someone, somewhere. If debaters can object easily, then there is simply no need to get into the substance of any topic to perhaps uncover logical flaws, empirical errors, or potential normative problems. Negatives can spend their time writing theory to preclude ACs and perfectly innocent debaters will lose rounds because it never occurred to them they would have to justify running a value. If coaches and judges think clashing is good, then it is time to rethink how we as a community deal with punishment theory.

¹² Sigel, *supra* note 11.

IV

*“I SHOULD HAVE KNOWN BETTER THAN TO CHEAT A FRIEND,
AND WASTE A CHANCE THAT I’D BEEN GIVEN”*

One of my biggest issues with punishment theory is that it amounts to an *ad hominem* attack upon one’s opponent. While it is rarely stated explicitly, punishment theory amounts to calling one’s opponent a cheater. This is because punishment theory most frequently rests on a fairness voter claiming one’s opponent has made the round somehow structurally unfair. In other words, one’s opponent has somehow cheated and should be punished for it. I have heard arguments that this is not what punishment theory is arguing; however, it is odd to advocate such a drastic punishment, loss of the round, for an innocent mistake. If punishment theory were used sparingly and cautiously as legitimate advocacy, then perhaps punishment theory would be acceptable, but when debaters are setting out to call their opponents cheaters as their primary strategy, this is a problem. It is unkind, unsportsmanlike, and destructive to a healthy, productive debate community. One of my favorite things about debate is that, unlike many other competitive activities, debaters make friends with their opponents and can often work to support them as they advance to higher levels of competition. I wonder if this will last in a world where debaters are engaging in name-calling, even if that name-calling is tacitly done. Debaters are not stupid; they know when they are being accused of cheating.

So then, another issue with punishment theory is that it is used to exploit the natural discomfort or dissonance one feels when one is attacked personally. Think about a time you might have been accused of cheating. The first reaction in my experience is not calm, rational, reasoning as to why I was not cheating. When I have been accused of cheating my reaction is to feel hurt, confused, angry, and other emotions that are not beneficial when in a debate round, or really any walk of life. This is true for me even though I am in my fifth decade of life. It takes concentrated effort to attempt to work through such emotions, calm down, and reason clearly on the issue. Young debaters who are essentially children or young adults likely experience similar emotions when they encounter punishment theory. They are given cross-examination time and a short preparation time to work through this cognitive dissonance, focus on the round, and come up with responses. This is a great deal to ask of a mature adult, let alone a young one. In my opinion, part of the strategy then behind theory is to engage in a tacit personal attack and rely on it to throw off one’s opponent just enough to win the ballot. I am not sure if every punishment theory debater realizes this and utilizes it, but they should because punishment theory then is a cheap and ugly way to win debate rounds.

V

*“YOU WANT TO HEAR ABOUT MY NEW OBSESSION,
I’M RIDING HIGH UPON A DEEP DEPRESSION, I’M ONLY HAPPY WHEN IT RAINS”*

Punishment theory seemed to emerge in LD debate right around the time that judges began embracing something called the offense/defense paradigm. This paradigm argues that offense is more important than defense, in other words, debaters have to have some means of gaining offense in a round. It took me a long time to grasp this concept because I always thought that because of the ability to turn arguments, offense was never something far from a skilled debater’s reach. However, while this offense/defense paradigm does not preclude truth testing paradigm or turns, it is friendly to punishment theory as these judges would seem to believe that negatives must be able to run disadvantages and counterplans in order to have competitive offense in the round and thus a chance to win. In my opinion, punishment theory is destructive to this very notion.

Punishment theory is a gateway issue meaning it is difficult to gain offense off of. This is because if I argue you are being unfair, winning the theory shell and proving that you are indeed fair is not really a reason to vote for you. This is part of the reason theory must be answered with meta-theory. Every moment the affirmative spends answering theory directly is a moment where they cannot get offense. When we have anything close to a low threshold on punishment theory, then negatives can run multiple theory shells each of which make affirmative offense increasingly difficult to achieve. Thus, if punishment theory is meant to assure the affirmative is not so abusive as to preclude the negative from gaining offense, then it is performed in such a way as to preclude the affirmative from gaining offense. This is an irrational, destructive, and contradictory method of solving of the issue of ensuring both sides have equal access to offense. It seems even more irrational when in a truth testing framework the negative can always get offense off of terminal defense or turns on the AC. Prestandards and NIBs do not preclude negative offense. Punishment theory does. Thus, punishment theory is ultimately far worse than what it is attempting to solve for.

This is made even worse when negatives attempt to preclude reverse voting issues (RVIs) and counter-interpretations to theory. RVIs and counter-interpretations are often the only way an affirmative can gain offense off of punishment theory. So negatives who do this are exploiting the idea that they are owed a chance to win offense by doing everything they can to deliberately prevent the affirmative from gaining access to offense. This further warrants why theory is disingenuous but I digress. Even more amazing is that judges seem to buy this concept of punishment theory sometimes refusing to accept RVIs or placing certain and peculiar

requirements upon RVIs making affirmative access to offense even more difficult. Limiting affirmative access to offense completely contradicts the entire offense/defense paradigm project. This is a further reason why it is crucial that the justification for why punishment theory is even proper at all should be provided because the concept of punishment theory in LD debate appears to be floating and disconnected from its roots and is now merely done out of intellectual masturbation or mere being done out of inertia. Thus, punishment theory is destructive to its own recent foundational ideals.

VI

*“I WANT YOUR UGLY, I WANT YOUR DISEASE, I WANT YOUR EVERYTHING,
AS LONG AS IT'S FREE.”*

Another problem with punishment theory is that it is simply an awkward fit in LD debate. Often LD debaters are influenced by what they see being done in college or high school policy debate. I have no objections to this as I think it is a way to help keep LD vibrant and relevant. However, simply because an approach comes from policy debate does not mean that it the approach is justified in LD. The rules, the times, the topics, the teams, and the norms are all different in LD debate. In policy debate, the 1AC is considered extended through the round giving the affirmative far more flexibility in how they approach negative arguments. This is not the case in LD. In LD the affirmative must extend the AC through the first and second affirmative rebuttal or at least find some way to gain offense of the NC. When the NC runs six minutes of punishment theory, this makes it extremely difficult for the affirmative to get offense because turning punishment theory is not easy (as previously explained) and there can be so little time to extend the AC. Thus, punishment theory is an awkward fit for this reason.

Punishment theory is often run very differently in policy. Punishment theory is often initiated by affirmatives in policy debate. For example affirmatives might complain that negatives should not be able to sever from their counterplan. This allows policy teams to argue that certain positions should be dropped from the round but the team need not be voted down purely for this violation as they might be able to win on another position. In LD, punishment theory is usually initiated by the negative and even if the theory asks the judge to ignore the argument and not punish the affirmative, typically an affirmative still loses. This is because the affirmative case is one, coherent argument explaining why the resolution is true. If the judge votes down the argument and not the debater, they are still going to vote down the debater. This again shows why punishment theory is an awkward fit in LD Debate because the flexibility of arguments is just not there.

Another reason that punishment theory is an awkward fit in LD is because the basic framework for LD is so different for LD than CX. In CX or policy debate, the default position is utilitarianism, the affirmative runs a plan with solvency and advantages and the negative runs disadvantages, counterplans, kritiks, topicality, etc. In other words, in policy debate, it is a given that the resolution is not to be affirmed categorically by with parametrics and because of this understanding, there is some agreement that this parametricizing cannot be done in a way that skews ground too badly for the negative. This is very different from LD. In LD, there is at least a significant minority or perhaps small majority who still think the resolution is to be proven true categorically. Proving something true categorically necessarily skews ground. If I prove that the Baltimore Ravens won the 2013 Super Bowl, this sadly offers little ground to anyone mistakenly believing that the Buffalo Bills won the Super Bowl. It would be strange, if not impossible, for me to have to provide the person who thinks the Bills won the 2013 Super Bowl with ‘ground.’ Truth necessarily precludes false arguments. Until there is a more general agreement on what is proper in LD debate, then to vote debaters down on punishment theory absent justification for why the traditional paradigm is bad and a preferable, functional alternative is proffered, voting for punishment theory is like voting on a kritik the negative has not offered and the affirmative possibly isn’t even aware of.

VII

“IT’S SO DEEP IN MY DAYDREAMS, BUT IT’S JUST A SWEET, SWEET FANTASY BABY”

I now make perhaps my most controversial claim. I argue that abuse is virtually impossible. I have heard of odd rounds where debaters run séance cases, where debaters run some sort of micro-political position where a team ran around hanging protest signs and petitions all over the school. It is only the notion that teams should somehow be rewarded for such ‘work’ that would prevent the other team from winning simply by pointing out how these approaches prove nothing, are irrelevant, not an arguments, etc. While I have often advocated using topicality as means to win the ballot, I have rarely coached my debaters to run punishment in the form you ‘you can’t do that theory.’ I did advise a debater of mine to do so once, as I clearly recall. This was an exceptional circumstance. My debater was blind and his opponent was running an ironic performance case. I thought this was arguably unfair because my blind debater was unable to see all the nonverbal gestures and expressions that were a part of his opponent’s performance. This may be a case of actual, in round abuse, but even here I am not sold. My blind debater should have been able to point out how the narrative does not affirm and easily win the round. Again, because of strange judging premises, this is not necessarily the case.

The reason abuse does not exist is because the negative, or either side in any round, always has refutation and turn ground. It may come as a shock to the modern debater, but back when everyone was a tabula rasa truth tester, negatives still very often won rounds. In fact, as I recall, most debaters opted to negate when they won the flip prior to an elimination round. Negatives did have to deal with pesky, perhaps gimmicky, NIBs or *a priories*, but they somehow managed. I do not even recall most of them requiring too much therapy after having to endure negating or even losing to a pre-standard. Back then, the solution to abusive affirmatives was to refute them, turn them, or point out their irrelevancy. Did affirmative sometimes win a squirrely, blippy pre-standard argument? Of course, but punishment theory is far worse, as a good negative was trained to seek out pre-standards and answer them. With a seven and six minute speech, this was always very possible. An affirmative being forced to answer even one, let alone multiple, punishment theory shells that preclude offense and still extend substance in four minutes is even more difficult if not preposterous.

VIII

***“DON'T WANNA BE TAUGHT TO BE NO FOOL,
ROCK, ROCK, ROCK, ROCK, ROCK'N'ROLL HIGH SCHOOL”***

At the beginning of every school year, I work to recruit new debaters by promising them how they will learn important and valuable skills such as critical thinking, researching writing, editing, and speaking skills. I also tell them how they will learn about current events, philosophy, and importance ethical topics. I brag that this will prepare them for college like no other activity. I try to emphasize how this activity is also fun, but I often lose many who hear the word ‘work.’ I am sure my appeal to new recruits is very similar to what many coaches and teachers say at the beginning of their school year. Yet, punishment theory undermines these goals.

The first way it undermines these goals is that most punishment theory shells seem irrelevant to the topic. They can be written at a summer camp in between freshman and sophomore year. I heard of one camp assigning campers to write over fifty punishment theory shells. (More evidence punishment theory is disingenuous but again, I digress.) Most punishment theory interpretations can be run on any case on any topic. The negative can run “affirmative needs a plan or a solvency advocate, cannot place burdens on the negative, etc. etc.” regardless of topic. I have heard complaints from coaches about generic disadvantages that link to any affirmative but punishment theory is far worse as at least generic disadvantages are usually topic contextual (e.g. “If Obama passes universal health care, he will be hella unpopular.”). Punishment theory links to, or can link to, any

position across the ages. A debater could write all his or her punishment theory shells at camp, maybe write a new AC or tweak an old AC, and be ready to debate any topic. Little research is necessary. They could pass this on to a favorite novice and that novice need never even bother writing a negative case. This is incredibly destructive of the educational goals of debate.

Another reason why debate is educational is because it is academically rigorous. Debaters have to learn a great deal in a short amount of time. Debaters must work to come up with creative ways to affirm or negate which forces them to ponder topics from multiple perspectives and run a variety of positions. Punishment theory undermines this in two ways. The first is that it stifles innovation; debaters are hesitant to run anything too new as this just opens the door to a theory debate they likely wish to avoid. The second way it undermines academic rigor is that it trains debaters to believe they are somehow entitled to run specific disadvantages or counterplans. It is not even that affirming somehow blocks disadvantage ground generically, even if the affirmative is defending the status quo as per the topic; it is that the negative seems to think they should be able to run 'the' specific disadvantage they want to run. This is the opposite of academic rigor. Instead of being forced to contemplate issues and cases in a variety of ways, debaters just cry foul when their one idea, disadvantages for example, are untenable in a round. This again undermines the goals of debate.

Punishment theory undermines the goals of academic debate for a few other reasons. Of course it is obvious that punishment theory ignores substance; this means that debaters not only miss out on learning about the topic, they miss out on the normative questions surrounding the topic. Punishment theory is also poor rhetoric. It is whiny, name calling, not compelling advocacy for a substantive position. All of this of course undermines critical thinking skills. When a debater's instinct is to avoid an argument, it is difficult to believe that debater is learning to closely analyze and refute arguments. Considering the importance of this in a world full of propaganda and misinformation, allowing for punishment theory in debate is a real disservice to the debaters who engage in it.

IX

*“NO ONE ON THE CORNER HAS SWAGGER LIKE US,
HIT ME ON MY BURNER, PREPAID WIRELESS.”*

Theory is ultimately elitist. Many debaters learn theory at debate camps, very expensive debate camps that not every debater can afford to attend. For many debaters then, even the jargon of theory is incomprehensible. These debaters do not know what is needed for RVIs, counter interpretations, and meta-theory.

These debaters are very unlikely to experience punishment theory at their local tournaments, may have a coach who is less experienced with it, etc. It seems then a tool to exclude all but the most elite from elimination rounds at the largest tournaments.

Additionally, not every debater can afford a private coach; in fact many must work a job, do all their schoolwork, and prepare positions on a topic. Many of these debaters come from teams that do not have the money to travel nationally very frequently. These debaters are often as capable as anyone to prepare very well on the announced resolution. They just often do not have the time to prepare a theoretical defense of everything they say. Here again, punishment theory is a way to keep debaters with the fewest resources out of elimination rounds because rather than us all agreeing to debate the topic, some have decided to debate about debate, and so countless students are not able to arrive prepared.

A third way that punishment theory strikes me as elitist is that it inherently favors the more senior debaters who have had countless rounds, typically tend to grow more successful, and have time to contemplate what debate is supposed to be like. Younger debaters are trying to master extensions, concepts of offense and defense, cross-applications, etc. So older debaters can then go into a round against less experienced debaters and simply dazzle them with punishment theory and the older debater can sleep walk through the round. I have watched this happen. An obvious novice debate runs an extremely weak case against a senior. I think, "This poor kid." This senior debater is going to crush this case. The senior runs theory, which is not rare. As a coach I think debaters often learn more from losses than from wins. I am not sure this is true in a round where a senior debater runs punishment theory on a novice. I think novices walk out having no idea what happened and quite possibly seriously discouraged about debating again.

X

***"NO ONE MAN SHOULD HAVE ALL THAT POWER,
THE CLOCK'S TICKIN' I JUST COUNT THE HOURS"***

Contrary to the opinions of some, there are rules for debate. Most tournaments are sponsored by some kind of umbrella organization. Because I am from Texas, the two I am most familiar with are the University Interscholastic League and the Texas Forensics Association. Of course, there is the National Forensics League, the National Catholic Forensics League, the Tournament of Champions as well as many other unique individual state umbrella organizations. There is even at least one home school debate organization. Each of these organizations has rules established by that organization. Usually these rules are written by adult

professional educators and coaches with some degree of experience in debate. In addition to these rules, individual tournaments typically include a list of rules for their tournament.

The reason these rules matter is because participation in these tournaments amounts to a type of social contract. Competitors agree to abide by these rules. Rarely do the rules mandate that LD debaters must run a plan, have a solvency advocate, prevent offense gained from a definition, etc. In other words, most punishment theory is advocating the punishing of a debater for violating a rule that is not a rule, was not agreed to be a rule by competitors, and so punishes, or advocates punishing, a debater in an *ex post facto* manner. In other words, it is punishing a debater for violating a rule that is not a rule and they could not have known prior to acting was a cause for punishment. The U.S. Constitution expressly forbids such laws because such laws are unjust. Allowing for such laws would be a recipe for oppression as those in power could harass anyone they wanted to target by passing a law to punish an action of an individual or group. As subjective as debate rounds can already be where it can be very unpredictable what judges will base their decisions upon, adding *ex post facto* punishment to the mix can dangerously undermine a young person's faith that there is justice in the system.

XI

“MAYBE NEXT TIME HE’LL THINK BEFORE HE CHEATS.”

In conclusion, I would like to address common objections I have heard when discussing and debating punishment theory with friends and colleagues. One of the most common objections is: “If the theory is bad or stupid, just beat it.” This is really more a trite remark than any substantive response to criticisms of punishment theory. The reason is because regardless of how bad or stupid a punishment theory interpretation might be, the affirmative still must deal with the refuting it and perhaps other punishment theory shells, off case positions, etc., and still extend substantive offense. No matter how ridiculous the punishment theory shell is, refuting it is likely not as simple as pointing out the stupidity of it. So, I don't think this defense of punishment theory is tenable.

A second defense of punishment theory is that it checks abusive positions or strategies. This rests on multiple, unwarranted premises. One is that there are abusive positions or strategies; another is that it is the place of a high school debater to advocate punishing another high school student for alleged abuse, and finally that abuse outside of the rules of the tournament or the sponsoring umbrella organization is even possible. I cannot recall a single time judging a

round that I witnessed a debater support any of these premises when running a punishment theory shell. If I am right that abuse is impossible, then argument is also untenable. Additionally, even if abuse is possible, unless the rule is codified, it does not seem the debater's role to check the abuse. If affirmatives should run plans, the adults running the organization should establish this rule.

This leads into the next defense of punishment theory, which is something like, "Debaters must be able to advocate for change." The response is, "Yes, but not in round." Again, when debaters compete in tournaments, they agree to abide by the rules of the tournament or the umbrella organization. Debaters are free to advocate in all kinds of forums but until they successfully get a rule changed or added it is not proper to advocate another student be punished when that other student has abided by all established rules. Many debaters would be infuriated if a judge voted them down for not wearing a tie or not wearing panty hose. The judge might respond that it is not a rule but it should be. Punishment theory is no different from such an arbitrary judge's decision. Both are unjust to the debater who was abiding by all the established rules.

Some claim that punishment theory is not an *ad hominem* attack because calling someone a cheater is no different from arguing that someone's advocacy will lead to the deaths of millions or is immoral in some other way. This argument is not persuasive because punishment theory challenges the intent of the debater. Punishment theory makes the tacit claim that the offending debater either intended to structure the debate round unfairly or is not smart enough to realize, even though the rule is not explicit, that they were structuring the round unfairly. This is different from challenging the substantive premises of a case because normative debate is inherently a discussion of competing conceptions of the good. A person can be mistaken about what achieves the good but their intent is still to achieve good. Punishment theory attacks the intent of the debater arguing they intended to do evil. This is a personal attack and so is different than challenging someone substantively.

There may be arguments in defense of punishment theory I am not familiar with, but the problems with punishment theory outweigh any possible benefits. Punishment theory is disingenuous, undermines clashing skills, amounts to an *ad hominem* attack, and is a bad fit for LD debate. Abuse is also extremely rare, if it is even possible; theory undermines the purposes of debate; it is elitist; and contrary to popular belief, there are rules for debate making theory unnecessary.

Judges should reject theory for all of these reasons and not force affirmatives to have to respond to it. If judges do think there is a place for punishment theory,

there should a very high threshold meaning debaters initiating punishment theory should have to prove the underlying premises behind theory and actual abuse in the round. If theory is unchecked, we risk the purpose and benefit of debate for students. Even if the impact of punishment theory is minimal, it is still unjust and discourteous. In the real world where arguments do not have to have nuclear war impacts to be persuasive, injustice and discourteousness should be enough reason to reject punishment theory altogether.