THE SCOPE OF NEGATIVE FIAT AND THE LOGIC OF DECISION MAKING

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“No one can make a decision except me.” – President Dwight D. Eisenhower

Resolved: The United States federal government should substantially increase its public health assistance to Sub-Saharan Africa. By consensus, affirmative teams debating this resolution will advocate a plan during their first constructive speech which will be an example of this resolution. The USFG, or some particular part of the USFG, will establish some policy of public health assistance. Directed toward some identified area of Sub-Saharan Africa. What the negative teams are able to advocate in response is a little more controversial, although every year they seem to have more and more flexibility. While everyone agrees that the negative has the right to defend the status quo, first negative constructs that lack either a counterplan or a kritik are becoming fairly uncommon. Although it is certainly reasonable for the negative to advocate that the USFG (or the specific agent identified in the affirmative plan) take action as a competitive alternative to the affirmative, the positions most frequently advocated by the negative these days, either in the form of a counterplan or a kritik alternative, involve a decision-maker separate from the one named in the plan. On this topic, many negative strategies will center around countering another country’s taking action toward Africa instead of the United States. Another perennial favorite of negative teams is to counterplan that another agent within the USFG should take action (e.g., if the affirmative advocates Congress enacting legislation, the negative might advocate the president issuing an executive order). Lastly, almost all kritik alternatives endorse someone besides the USFG taking some kind of action.

In this article, we will take issue with these kinds of negative strategies by arguing that negative fiat should be constrained to the actor employed in the affirmative plan. In order to do this, we will first explain what we believe to be the primary benefits of participating in policy debate. From there, we will succinctly summarize thinking about negative fiat that has developed since the inception of the counterplan and explain why alternative agent fiat is inconsistent with the logic of decision-making that undergirds the justification for both affirmative and negative fiat. We will then explain how these arguments work against agent counterplans, against demands for plan specification, and against alternative frameworks. Finally, we will identify and answer some arguments made in defense of alternate agent fiat that have not been explicitly answered. With this article in hand, you should be able to write a frontline for the second affirmative constructive, as well as extensions for both rebuttals.

We should note that while some portions of this article represent entirely unique and creative applications of the central line of reasoning that negative fiat should be constrained to agents who have the power to enact the plan, we are in the intellectual debt of other debate theorists, most notably Michael Korocok. Throughout the article, we cite various important articles which helped inform our thinking on this subject, and we recommend you seek these articles out if you are seriously interested in this question. We try our best to summarize the arguments of others when appropriate. Since the central thesis of this article has been articulated extremely persuasively again and again, it is our hope to make this thesis more palatable to current debaters and coaches by explaining the relevance of this question to contemporary controversies in the activity. At a minimum, we would like to do our part to contribute to the body of literature describing the scope of negative fiat, which Solt (1996) described as “a morass, a swamp filled with exotic species of fiat theory and no theoretical consensus.”

The value of policy debate

Since its inception, much of the praise policy debate has received for educating students has focused on the real-world skills adopted through the processes of research, argumentation, critical thinking, and policy analysis. Students take these skills and apply them to jobs, politics, fields of study, or their personal life. Indeed, in every decision we make, including trivial questions like where we should eat dinner as well as non-trivial questions like what college we should attend or whom we should marry, we evaluate all of the relevant advantages and disadvantages, consider possible alternatives, and come to a conclusion. Apologists for policy debate often champion the increased critical thinking skills taught by the activity that are necessary used to work through these kinds of choices. If this is truly the desired goal of policy debate, one would think that the way in which debates are framed, discussed, and adjudicated should closely resemble the logic behind argumentation and decision-making that everyone, from the highest government officials to the most “unconsequential” members of society, uses when they themselves think through a difficult choice.

The way in which decisions are made in the real world always takes into account the consideration of who is making the decision. Decision-makers can only chose from the available options open to them, and not from all possible options they can think of. While decision-making would be a lot easier if we could assume the position of a universal decision maker, i.e., someone who is all-powerful and can magically alter the course of action of anyone in the world they wanted, reality doesn’t offer us this option. There is no game genre for decision making, no cheat code, and no ability to play god. Only once we realize the limited power that humans possess can we develop a cogent basis for decision making.

Countless debate theorists have explained this argument and applied it to the logic of policy debate. From Allan Lichtman and Daniel Rohrer’s groundbreaking 1975 article “A General Theory of the Counterplan,” we have the earliest observation that negative fiat should have a limited scope, relating to the logic of who is making the decision:

It is assumed, of course, that decision makers being addressed have the power to put a counterplan into effect. An individual or governmental unit can reasonably be asked to reject a particular policy if an alternative promises greater net benefits. If, however, a counterplan must be adopted by another individual or unit of government, the initial decision maker must consider the probability that the counterplan will be accepted. Debate propositions often affirm that a particular policy should be adopted by the federal government. Even if adoption of this policy by the individual state governments would be more beneficial, a reasonable critic would still affirm the resolution if state adoption were highly unlikely. The federal government should refrain from acting only when the net benefits of state and local action, discounted by the probability that such action will occur, are greater than the net benefits of federal action. (p. 74, footnote 13).

Expanding upon Lichtman and Rohrer’s work, Michael Korocok (2001) keenly explained that advantages and disadvantages relating to political ramifications, resources, policy effectiveness, enforcement, and so on, all depend upon whose task it is to take the desired action. Therefore, the questions of the substantive desirability of the affirmative, resolitional education more broadly, and policymaking in total...
incoherent without first specifying who is making the decision.

On this year’s resolution the affirmative is asked to support a
United States federal government increase in public health assistance
to Africa. The affirmative’s job is clearly to craft a normative argument
in favor of all, or part of the United States federal government’s taking
action. Arguments as to why other countries, international organiza-
tions, or other agents within the United States should take action are
irrelevant to the question of the affirmative’s plan because, as Lichtman
and Rohrer point out, they circumvent questions of probability. Thus it
only makes sense to analyze the desirability of the affirmative’s action
from the lens of available alternatives open to the topical agent advan-
ced by the affirmative. The further that we stray from this logic, the
less and less useful debate becomes and the more and more a flawed
framework for decision-making gets ingrained in our minds.

Consider what it means when a judge votes affirmative or
negative. Supposing the affirmative has presented a topical plan, the judge
votes affirmative when the plan is shown to be net advantageous when
compared to the status quo or a competitive alternative; and the judge
votes negative when the plan is shown to be less desirable than the
status quo or a competitive alternative. If giving testimony to the Con-
gress, the judge could reasonably say: “Based on the arguments I have
heard over the last hour and a half, it would be better for you to do X
than Y.” In other words, after the debate is concluded, one entity could
make a decision based on the information presented. This is not to say
that Congress (or anyone else) should make decisions based on the
outcomes of scholastic debate rounds—what is important is that the
debaters will have gone through the process of making an informed
decision. This is utterly impossible if the negative supports action from
some other agent besides the one identified in the plan. Since the entire
point of affirmative voting is to frame off questions of “would” in order to focus
completely on questions of “should,” questions of probability never get
discussed. From the perspective of the type of argument that one
identified in the plan, the probability is 100%, since if they decide to adopt the mandates of
the plan, there is an absolute guarantee that they will in fact do so. Yet
if the plan is compared to a counterpart in which Japan carries out public
health assistance rather than the United States, there is no situation
where the United States could make a decision based on a 100% probability
that Japan would take action if the United States did not.

Thus, if the Congress had to consider if they should take action or some
other decision-making body should take action, if they failed to consider
the chance that other decision-making body would in fact take the
desired action, they would not have gone through such a logical
deliberation process. Yet this is exactly the way proponents of alterna-
tive agent-like constructive judges and debaters to think.

One point, debate certainly helps teach a lot of skills, yet
we believe that the way policy debate participation encourages you
to think is the most valuable educational benefit, because how someone
makes decisions determines how they will employ the rest of their abil-
ities, including the research and communication skills that debate builds.

Plenty of debate theory articles have explained either the value of de-
bate, or the way in which alternate agent strategies are detrimental
to real-world education, but none so far have attempted to tie these con-
cepts together. We will now explain how decision-making skill develop-
ment is the foremost value of policy debate and how this benefit is the
decision-rule to resolving all theoretical discussions about negative flat.

Why debate? Some do it for scholarships, some do it for social
purposes, and many just believe it is fun. These are certainly all relevant
considerations when making the decision to join the debate team, but as
debate theorists they aren’t the focus of our concern. Our concern is
finding a framework for debate that educates the largest quantity of
students with the highest quality of skills, while at the same time
preserving competitive equity. The ability to make decisions deriving from
discussions, argumentation or debate, is the key skill. It is the one thing
every single one of us will do every day of our lives besides breathing.

Decision-making transcends boundaries between categories of learn-
ing like “policy education” and “critic education,” it makes irrelevant
considerations of whether we will eventually be policymakers, and it
transcends questions of what substantive content a debate round should
contain. The implication for this analysis is that the critical thinking and
argumentative skills offered by real-world decision-making are compar-
atively greater than any educational disadvantage weighed against them.
It is the skills we learn, not the content of our arguments, that can
totally improve all of our lives. While policy comprehension skills are going to
be learned through debate in one way or another, those skills are useless
if they are not grounded in the kind of logic actually used to make
decisions.

The academic studies and research supporting this position are
numerous. Richard Falkerson (1996) explains that “argumentation... is
the chief cognitive activity by which a democracy, a field of study, a
corporation, or a committee functions. ... And it is vitally important
that high school and college students learn both to argue well and to critique
the arguments of others” (p. 16). Stuart Yeh (1998) comes to the con-
clusion that debate allows even cultural minority students to “identify an
issue, consider different viewpoints, and form an opinion” (p. 49).
Certainly, these are all reasons why debate and argumentation themselves are valuable, so why is real world
decision-making critical to argumentative thinking? Although people might
ever think about problems from the position of an ideal decision-
maker (e.g., Ulrich, 1981; quoted in Korek, 2001), in debate we should be
concerned with what type of argumentative thinking is the most
relevant to real-world intelligence and the decisions that people make
every day in their lives, not academic trivialities. It is precisely because
it is rooted in real-world logic that argumentative thinking has value.

Deanna Kahn’s research in “Thinking as Argument” explains this by
stating that “no other kind of thinking matters more or contributes more
to the quality and fulfillment of people’s lives, both individually and
collectively” (p. 49).

Given these pedagogical concerns, we agree with Korek’s (2001) conclusion that “the appropriate scope of negative flat is
the scope of the authority of the decision-maker choosing whether to adopt the
affirmative plan” (p. 253). Korek clearly identified that this interpretation of
negative flat was the only way to access the decision-making logic
that is so valuable. He leaves as an open question, however, who ex-
cactly constitutes the decision-maker who chooses to adopt the
affirmative plan. Is that decision-maker the entire resolutional agent? Is it the
judge deciding whether or not to endorse the plan academically? Our
proposal is that the decision-maker should be limited to the topical agent
chosen by the affirmative, which we contend is the logical extension of
Korek’s reasoning, and has applications both in dealing with plan spec-
fication issues and with kritik theory beyond further clarifying the limits of
negative flat.

Agent counterplans: Fair?

The way in which theoretical disputes are handled in actual de-
bate rounds is often murky and shallow. Frequently, the Second Affirm-
itive speaker will read a quick, bitty list of complaints about the
counterplan or kritik in question, and then, in the negative block, an
equally quick and bitty list of defenses are read in response. Rarely is
a coherent interpretation which ties all of the arguments together of-
fered and compared to a counter-interpretation, as topicality debates
are often treated. Standards are often debated in a vacuum and not
compared to an alternative vision of debate, which is usually merely
implied. We regard this as unfortunate, and perhaps a reason why negative
teams all too frequently win theoretical disputes, regardless of the
issue. Nevertheless, in an ideal debate, each team will defend competi-
tive visions of negative flat power, and organize their arguments in terms
of offense and defense. There are two impacts to all of these argu-
ments: competitive equity and education. We have already explained
the educational benefits of adopting our interpretation. Affirmative teams will have to be prepared to answer claims like “But it is so educational to research about the Congress versus the President,” but since these kinds of arguments are not exclusively accessed by agent counterplans, we do not regard them as serious challenges to our argument presented above. Therefore, we shall deal here with the issue of competitive equity.

First, we must note that the terminal impact to all questions of competitive equity is ultimately participation in debate itself, which is good because debate is fun and, obviously, educational. Therefore, if it is the case that the single most valuable benefit one can gain from participating in debate is that it improves decision-making skills, then the educational benefit of rejecting an illogical schema would outweigh competitive equity concerns that are not absolute. Therefore, unless the negative can show that agent counterplans are absolutely critical to preserve participation in debate (for example, if the affirmative would win almost every debate without agent counterplans), claims that they are “not that bad” do not get to the level needed to prove that they are necessary. It is the negative’s burden to justify their use of alternate actor fiat, not the affirmative’s burden to dejustify all agent counterplans. Unfortunately, as we explain next, debates normally do not play out this way.

The connection we have already identified between the logic of decision making and the proper limit of negative fiat has implications for competitive equity as well, which gives affirmative teams further offense to convince judges to not consider alternate agent fiat. One method used by negative teams to handle theoretical objections to their counterplans or kritiks is to minimize their opponents’ ability to win offensive impacts by crafting clever counter-interpretations that simultaneously allow the particular strategy chosen by the negative but disallow similar, but perhaps more egregious, strategies. For example, suppose the negative advocates that the president, instead of the congress, should increase public health assistance. When the affirmative team argues that judge should reject alternative agent fiat, the negative might offer a counter-interpretation that they should be constrained to the decision-makers in the resolution (i.e., some part of the USFC, or even worse, that the negative should only be allowed to file the particular decision-maker used in their counterplan, the president. The most egregious abuses of negative fiat would be avoided by this counter-interpretation, the negative would claim, and the judge should certainly allow their reasonable, predictable counterplan. If the counter-interpretation chosen by the negative only allows the exact counterplan that they chose to run, it would certainly be very easy for the affirmative since that is the only counterplan they would ever have to deal with! Why on earth should the judge vote against the counterplan for theoretical reasons if the negative has an interpretation that is very favorable for the affirmative?

We believe that this kind of strategy, while rhetorically strong, is intellectually bankrupt. Affirmative teams occasionally respond similarly to topicality arguments by offering the counter-interpretation that only their plan is topical, and negative teams have figured out by now that these kinds of counter-interpretations are highly arbitrary. We contend that just like an interpretation of what is topical ought to be grounded in some non-arbitrary literature, interpretations of what the negative ought to be allowed to file also should be non-arbitrary. The current repertoire of interpretations that debaters use mainly focuses on distinctions like public vs. private actors, domestic vs. international decision-makers, multi-actor fiat and object fiat, but these categories miss the mark completely, because they have nothing to do with the foundation of negative fiat, the logic of decision-making.

An examination of the question of filing “the object” makes our position even more clear. Except for those who believe in ‘negative flexibility’ as a cult-like religion, everyone agrees that the negative should not be able to file the object of the plan; otherwise their win percentage would skyrocket at the expense of the affirmative. Imagine you are running an affirmative which gives condoms and educational assistance in order to solve an HIV/AIDS advantage. What substantive answer would you have to a counterplan that had all people infected with HIV be celibate? Or suppose your plan was designed to solve a genocide. The counterplan to have the culpable government cease killing people probably solves your affirmative better than you could ever hope to with the plan. These counterplans are intuitively unfair, making it impossible for the affirmative to generate offense. But what rule would we adopt to preclude their discussion? Perhaps the negative should not be able to file a decision-maker who is affected by the plan. Even if there was some non-arbitrary way to decide what and who the plan affects, it is unclear if even that rule would be sufficient. Consider affirmatives which argue that the World Health Organization is making something worse, perhaps by offering defective medicine or equipment, and so the plan has the United States increase public health assistance in order to offset the poor assistance in the status quo. The counterplan to have the WHO change its policy solves the whole case, and the plan does not actually affect the WHO (the object of the plan is still somewhere in sub-Saharan Africa), so our previously identified rule is insufficient for excluding this counterplan, yet it is also intuitively unfair. When alternative agent fiat is allowed, there really is no non-arbitrary method of preventing object fiat. Since every harm area is a consequence of no one’s solving it, every alternative agent counterplan is at least a little bit object fiat. While some counterplans are clearly “more unfair” than others, if we can agree with the general principle that object fiat hampers competitive equity, the only true solution is to prevent all alternative agent fiat.

One possible answer to this line of reasoning is that while it is the case that there is no real world decision maker who would decide between the plan and the counterplan, debate is not the real world, and the judge is the one singular decision maker who decides to accept the plan or the counterplan and endorse one or the other as the “best idea.” Certainly the judge is a singular decision maker with respect to the ballot (most of the time—but it should be noted that the University of Louisville has counterplanned other judges into their debates, and the only real decision he or she must make is determining which team did the better debating. This seriously begs the question, however: the judge must have some criteria for making that decision, and the fact that he or she is a unitary decision-maker when it comes time to sign the ballot does not obviate negative teams from justifying the particular policy they are advocating vis-à-vis the plan. For the most part, teams defending alternate agent counterplans still would like the judge to evaluate the debate within a traditional policy framework, voting either for the topical plan, a competitive policy option, or the status quo. If they defend a competitive policy option which does not test the opportunity cost of the agent of the plan, they still want the judge to decide that the counterplan is better than the plan, which means they still have to come to grips with the basic thesis of the single decision-maker argument. This is not the only possibility, however. The negative team could posit that the judge is like an activist deciding which policy to endorse. The real question, then, is not which policy is the best in a vacuum, but rather which policy is most worthy of an activist’s support. Unfortunately for defenders of alternate agent counterplans, this argument offers them no security—one of the most critical questions an activist must consider is whether or not they will be listened to, i.e., whether their activism will work. It might be a worse policy for the Congress to pass legislation than for the Court to issue a ruling, but at the same time it might be nearly impossible to successfully lobby the Court. Since alternate agent fiat intentionally ignores questions of probability, it is never a useful tool for informing activists in which organization they ought to place their trust. It is ironic that most negative teams who make this counter-interpretation as part of a theory debate subsequently seem to ignore the question of activism when reading solvency evidence for their counterplan or disadvantages to the plan. Other possible iterations of the role of the judge as a decision-maker are discussed in more detail below when we turn to the
application of this theory to critical framework debates.
Separate from the question of the logic of framing an alternate agent, there are other serious fairness concerns that the debate community seems to have overlooked. These concerns are not entirely separate, of course—flat is a decision-making tool, not an exercise in imagined omnipotence. When I decide if I am going to get up when my alarm rings, or instead hit snooze, it is totally reasonable for me to imagine both waking up and hitting snooze at a probability of 100%, but in neither case would it make any sense for me to consider a possible world in which my friend covered all of my daily duties so that there would be no disadvantage to getting some extra sleep. In policy debate, in order to debate topics that everyone can equally research, we debate public actors rather than private ones, and we need to find literature to support acting in one way or another. Just like it would be unreasonable for me to consider things other people could (but probably wouldn't) do, it is unreasonable for rigorous policy analysts to write evidence comparing equivalent action between two agents. To be sure, there is some literature that compares different public actors, but what passes for quality evidence here is terrible most of the time. Negative teams will read cards that say “the Count is good at making health policy” or “Japan is decent at public health assistance to Africa” or even “Japan is good at [insert specific mandates of the plan]” in no case, however, are there cards which say “if one had to choose between Japan or the United States doing X, Japan would be better.” The reason should be obvious—one would not ever make this kind of decision, or anything close. Evidence which states that Japan is better than the United States or vice-versa in the area of public health assistance will not cut it, because it is not written in the context of policy choice, since there is no Emperor of the World. At best, comparative evidence that is read misrepresents the comparison because there are implied probability concerns which are intentionally bracketed off with the magic wand of flat. That one agent is not likely to act is more often than not the reason that another agent is “key.”

Why is this important? If we are willing to engage in the lunacy of alternate agent flat, perhaps the fact that the solvency evidence is slightly out of context is not the biggest deal. Yet this cuts to the heart of the matter—if evidence that compares two agents taking action on the question of the plan is quoted out of context because probability issues are ignored, the kind of evidenced-based, rigorous policy analysis that is the mark of the best rounds of debate is impossible. No one rebuts the claim that Japan, rather than the United States, should give relief to sub-Saharan Africa, because that initial claim is not a genuine opportunity cost of the plan. People who write articles analyzing policies usually do so for a reason—they would like to encourage policy-makers to behave in one way or another. This means that there is an examination of possible courses of action with respect to a single agent—an ideal policy and one or more alternatives, all of which come at the cost of enacting the first policy. Action by alternate agents fails to represent an opportunity cost to the agent of the plan, and therefore is never going to be the subject of rational public policy discourse. Since a good literature base is the sine qua non of fair subject matter for policy debate, alternate agent counterparts should be excluded.

We have mentioned that agent counterparts fail to test the opportunity cost of the plan, but what does this mean and why is it important? Opportunity cost is a concept important in the field of economics. It refers to the most valuable forgone alternative to an action. This is very important to economists because of the flexibility of currency—dollars may be used to purchase a great number of things, and so everything that is purchased “costs” the other things that could have been purchased with the same money. For example, if a hot dog costs one dollar and a hamburger costs two dollars, the opportunity cost of buying a hamburger is two hotdogs, because every hamburger purchased is two less hotdogs that could be purchased. In debate, we test policies based on their direct costs (disadvantages that will result) and opportunity costs (competitive counterparts or kritik alternatives which may enjoy a comparative advantage). A counterplan does not represent an opportunity cost merely by being competitive, for competition is a necessary but not sufficient condition to prove that one policy represents a legitimate opportunity cost of another policy. It is critical that the two policies be enacted by the same agent, because otherwise it is impossible to say that the opportunity to exclusively enact one policy was lost for any particular policy-making body. This is a key distinction because every decision that people make involves measuring opportunity cost, which means that comparisons of policies which do not represent mutual opportunity costs invoke a kind of thinking totally foreign to any actual decision-making, and is therefore problematic for all of the reasons we have outlined.

**Plan specification**

It is impossible to get deeply involved in the debate surrounding alternate agent flat without addressing agent specification (A-spec) arguments. Typically, the way these arguments are deployed goes something like this: A: the USFG is composed of three branches; B: their plan specifies no further than the USFG; C is that bad because it means we cannot read agent specific disadvantages or establish textual competition for our agent counterparts and agent considerations are 90% (!!!) of policymaking (Elmore, 1980), which means D: it is a voting issue, judge. Glancing down at the timer, 12 seconds have gone by. We are torn on the demand for specific agent specification. Adrienne Brever (1994) made several solid arguments for requiring the affirmative to specify more than simply “the USFG.” On the other hand, the most common practical strategic purpose of the A-spec argument is to legitimize counterplans which we find deplorable. Nevertheless, we believe that if the affirmative specifies their agent, rather than establishing a liability, it makes it easier to defend against alternate agent counterparts. If the negative team’s A-strategy (no pun intended) is an alternate agent counterplan and you are good enough to beat them on “permute; do the counterplan,” you are also good enough to beat them on “agent counterplans are illegitimate.” More to the point, some people have argued that one possible defense of USFG-specific alternate agent counterplans on USFG topics is that the agent of the resolution is still the USFG, and so if both the plan and the counterplan is under the jurisdictional authority of the USFG, the counterplan is reasonable. Since in the last two and a half decades we have moved firmly past the notion that the affirmative team is responsible for every instance of the resolution (it now goes without saying that the affirmative team must only defend their plan), as long as the affirmative team specifies a topical agent, there should be no question that the negative only may use that agent in their counterplans.

In most A-spec debates, the negative team will quote Elmore’s claim that 90% of policy-making concerns the appropriate agent. We will spare you this card, but we note that the only relevance that this evidence actually has is in terms of deciding between agents over which you have delegation power. If I am going to assign one of my debaters the politics DA updates for the next tournament, perhaps 90% of that coaching decision is picking a student who is going to do a good, comprehensive job. Obviously the counterplan to have all the other teams not update the politics DA solves the case better than the plan, regardless of which of my students gets the assignment, but the silliness of that demonstrates why the legitimacy of alternate agent counterplans does not follow from Elmore’s claims, rightly understood. Additionally, Elmore concludes his article by arguing that implementation literature is overwhelmingly descriptive rather than prescriptive, which essentially makes the argument we have made above—it is impossible to ground these kinds of debates in the literature.


Students of implementation repeatedly argue that implementation problems should be considered when policies are made. Better
policies would result, we are told, if policymakers would think about whether their decisions could be implemented before they settle on a course of action. The argument is often made in an accusatory way, as if policymakers were somehow deficient for not routinely and systematically thinking about implementation problems. Yet when one looks to the implementation literature for guidance, there is not much to be found. Implementation research is long on description and short on prescription. Most implementation research is case studies. This fact, by itself, is neither good nor bad. But it does present special problems when it comes to translating research into useful guidance for policymakers.

Cases, if they are well written, focus on a particular sequence of events and a specific set of causes and consequences. When drawing conclusions from their data, case writers are characteristically and honestly cautious. They are typically careful not to generalize more than a step or two beyond their data, and they do that very apologetically. Thus, when we look to the most influential implementation studies for guidance about how to anticipate implementation problems, we find advice that is desultory and strategically vague.

**Framework debates**

Decision-making logic has important repercussions for critical debates as well, and since the kritik’s evolution in debate is so nascent, the theoretical literature’s discussion of these issues in conjunction is sparse. This is disappointing, because framework debates are particularly fertile grounds for the application of decision-making theory. One of the central questions addressed by critical debates is whether the role of the ballot is to evaluate policymaking on the one hand or micro-political action (or something else entirely) on the other. Even when critical teams don’t root their links in an indictment of policymaking, their alternative usually entails some kind of change in the way individuals think. This sets up a dichotomy between who is taking action, and fundamentally puts kritiks in the same category of alternate agent counterplans.

The theoretical legitimacy of critical frameworks is the second area in which Korczok’s (2001) analysis is incomplete. Our view that the appropriate scope of negative fiat is the topical agent chosen by the affirmative would exclude all kritik alternatives, or at the very least increase the level of specificity required in order to consider them legitimate. This is true because the affirmative’s agent, derived from the resolution, has to be an actor within the United States federal government. The affirmative’s actor is not the debate critic. Clarifying this distinction makes it obvious that for the negative’s criticism to have any relevance, they have to ignore the constraints upon the decision maker’s authority. Alternatives that have the judge endorse a nebulous rejection, rethinking, or criticism of a particular axiology, epistemology and/or ontology are the exact type of universal decision-making authority that doesn’t exist in the real world. It would be great if every terrorist in the world rejected violence, every criminal embraced love, or every human being ended their fetish with capitalism, but the probability that these would ever occur is nil. This is object fiat at its best, and as explained earlier, it is devastating for the affirmative’s capacity to develop offense.

Negative claims that excluding critical alternatives is detrimental to education fail to be persuasive when decision-making logic is taken into account. Critical intellectuals and policymakers both take into account the probability that their actions will be successful. Framing that individuals alter their method of thinking circumvents these questions of probability and thus not only destroys education about policymaking, but offers a flawed approach to activism (or any other purview of action/philosophy the negative is advocating). Intellectuals and activists have many important considerations relating to resources, press coverage, political clout and method. These questions all are directly related to who is taking action. Alternative debates often become frustrating because they do a poor job of explaining who the subject is. Consider the popular Nietzschean alternative, “do nothing.” Who is it that the negative wants to do nothing? Does the USFG do nothing? Is it the debaters? Is it the judge who does nothing? Is it every individual, or just individuals in Africa that have to do with the affirmatives harm area? All of these questions directly implicate the desirability of the alternative, and thus the education that we can receive from this mode of debate. Alternatives like “vote negative to reject capitalism,” “detach truth from power,” or “embrace an infinite responsibility to the other” fall prey to similar concerns. This inability to pin the negative down to a course of action allows them to be shifty in their second rebuttal, and sculpt their alternative in a way that avoids the affirmative’s offense. Rather than increasing education, critical frameworks are often a ruse that allows the negative to inflate their importance and ignore crucial decision-making considerations.

Several other offensive arguments can be leveraged by the affirmative in order to insulate them from negative claims that critical debate is a unique and important type of education that the affirmative excludes. The first is discussed above, that the most important benefit to participation in policy debate is not the content of our arguments, but the skills we learn from debating. As was just explained, since the ability to make decisions is a skill activists and intellectuals must use as well, decision-making is a prerequisite to effective education about any subject. The strength of this argument is enhanced when we realize that debate is a game. Since debaters are forced to “switch sides” they go into each debate knowing that a non-personal mindset will be necessary at some point because they will inevitably be forced to argue against their own convictions. Members of the activity are all smart enough to realize that a vote for an argument in a debate does not reflect an absolute truth, but merely that a team making that argument did the better debating. When it comes to education about content, the number of times someone will change their personal convictions because of something that happens in a debate round is extremely low, because everyone knows it is a game. On the other hand, with cognitive skills like the decision-making process which is taught through argument and debate, repetition is vital. The best way to strengthen decision-making’s cognitive thinking skills is to have students practice them in social settings like debate rounds. Moreover, a lot of the decision-making process happens in strategy sessions and during research periods – debaters hear about a particular affirmative plan and are tasked with developing the best response. If they are conditioned to believe that alternate agent counterplans or utopian philosophical alternatives are legitimate responses, a vital teaching opportunity will have been lost.

Much of the in-round argumentation and theory literature on framework debates has focused on the subject of “affirmative choice” over the last few years, most notably by O’Donnell (2004). As explained in the discussion above about agent specification, the affirmative clearly gets to choose their plan/case, and thus without question also gets to choose their agent. Champions of “affirmative choice” contend that just as affirmative teams get to choose a (topical) plan, they get to choose the ultimate criteria used by the judge to decide how to vote. The way in which “affirmative choice” gets deployed in the status quo is correct, but irrelevant, for two reasons. First of all, the fact that the affirmative chooses to answer the question of “whether the affirmative’s policy option is superior to the status quo or competitive policy option” is not a reason why the negative’s framework is not competitive. Each side disagrees about the question that is being asked in the debate, just like each side disagrees about what branch should be acting. Since the negative will still win links as to why the framework the affirmative chooses has a disadvantage, they are able to disprove why that choice is desirable. The majority of all critical debaters incorporate links that apply not just to the plan but to the logic of policymaking, framework choice, and fairness as well. This makes it easy for the negative to win that affirmative choice isn’t a reason for the affirmative to win, because they don’t make clear to the judge the assumptions behind what the affirmative chooses, and offer a competitive framework. Currently, “affirmative choice” as a 2AC response to a kritik is no different than making a
theory argument against the congress counterpart by saying “well, we chose the Supreme Court, so action by Congress is an irrelevant consideration.” The real reason why “affirmative choice” is a devastating response to the negative’s framework is because their framework will necessarily entail an alternative that involves action by a different actor. This is the logical underpinning behind “affirmative choice” arguments that has been missing so far from the literature base. As explained above, action by actors besides the USFG may be competitive, but since they do not test the opportunity cost of the plan’s agent, they are not cogent responses to the speech act presented in the first affirmative construction.

Things get tricky when the negative attempts to explain their framework as a reason why the judge’s intellectual endorsement of the resolution is a separate consideration from whether the decision-maker should be acting. This is the stance Korek (2001) takes, saying that separating the judge from the decision-maker opens up a discursive space for critical arguments. Clearly the judge then has authority to choose to endorse an idea that is distinct from, and competitive with, an intellectual endorsement of USFG action. Unfortunately for the negative, this is a separate question than the one the resolution asks, and does not provide a reason to reject the affirmative. The reason why this is true is resolved by a discussion of what the jurisdictional limits of the resolution are and relates to the next problem with current ways of looking at affirmative choice.

The second concern with “affirmative choice” is that the constraints on possible affirmative choices are not explained. They do not get to choose simply any way of looking at the resolution: they get to choose a topical action. This is the crucial difference that Korek’s proposal ignores, because it leaves open the possibility that an actor besides the USFG could be the decision-maker. This isn’t to say that his proposal endorses non-topical action, but taking into account the fact that the affirmative’s actor has to be topical allows us to narrow down the range of possible decision-makers and to make a conclusive answer about what question the affirmative is attempting to answer in order to win the debate. Obviously, in a policy debate, the congress, the executive, and the judiciary are all possible decision-makers that are examples of the resolution. But in the context of framework debates, the resolution gives us only one question to answer. Every year, the resolution contains the introductory word “resolved,” followed by a clause of action by the USFG. The colon separates the two parts of the resolution from each other, indicating that we as a community in each round have to “express an opinion by resolution or vote” about the normative question of USFG action (Words and Phrases, 1964, p. 478). Individual participants in the debate round are not the agents of the resolution, but the one coming to an affirmative or negative conclusion about the question of if it would be good for the United States federal government as a decision-maker to act. Each debate critic and individual debater is clearly separated from the decision-maker by the resolution. Negative interpretations that turn the judge or the debaters into a second decision-maker are thus attempting to change the question that the resolution is asking in order to evaluate the opportunity cost of their localized action.

Considering the topical agent identified in the plan the decision-maker with respect to the debate, rather than the judge or the debaters, has three additional benefits. First, ethical questions relating to intellectually endorsing the affirmative and other areas of literature that are not traditionally discussed in the context of policymaking can still be discussed under this decision-making framework, but in a more productive manner. A negative strategy that includes a counterplan that uses different assumptions to solve the affirmative and says the affirmative’s approach is morally bankrupt is a reason why the affirmative should be ethically rejected. Even absent a counterplan, ignoring implications for the judge and excluding their ability to individually endorse alternative moral frameworks forces negative teams to make their criticisms more specific to the plan. If they are going to say the affirmative is unethical, they should be forced to engage the traditional arguments in the utility vs. deontological literature like “moral purity has unintended consequences.” This would mean that the negative’s alternative (for the judge to reject the affirmative’s unethical course of action), would have to be much more specific and engaging on the question of whether it is possible to predict consequences or enforce moral absolutism in the context of the affirmative’s advantages. Second, it prevents debate from being about role-playing. Many critical teams’ objection to policymaking is that we are not the federal government and we should not pretend that we are. Since we are merely saying that the judge’s range of fact is constrained by the authority of a single decision-maker, rather than that the judge should be the decision-maker, debaters or judges do not have to accept unconditionally the USFG’s authority or way of thinking. Third, it is the only way to set a limit upon an unlimited number of affirmative or negative frameworks. Just as it is unfair for the negative to change the question of the debate, the affirmative should have a predictable way of proving the resolution is a good idea.

Other objections

The most common objection negative teams will make to the line of reasoning presented in this article is that agent counterplans are the only way to test the agent, and the affirmative must be prepared to defend all parts of their plan, including the agent. We find this argument disingenuous—disadvantages, not counterplans, are how parts of the plan are tested. A counterplan will always lose unless it has a net benefit, and it is the net benefit itself that tests the agent. None of the net benefit literature, however, will have been written with the peculiar choice of the plan vs. the counterplan in mind. More to the point, an alternate agent counterplan and a net benefit linked to the agent of the plan is less of a test of the agent than simply the disadvantage presented by itself. This is because, as explained above, one the most basic concerns an agent should evaluate when deciding whether not to take an action is the probability that other agents will do anything. We call this the other agent. Advocates of alternate agent counterplans ask us to ignore this important consideration. Rather than being key to testing the agent, agent counterplans make testing the agent impossible.

Another creative objection: to the notion that the scope of negative fiat should be limited by the logic of decision-making is that it would allow for non-intrinsincness arguments to be made against disadvantages. A non-intrinsincness argument is simply an old-school way of exuding disadvantages that are not intrinsically linked to the desirability of the plan. Consider the situation where the negative contends that the plan will result in the USFG passing legislation which orders drilling in the Arctic National Wildlife Refuge (ANWR). The ANWR politics disadvantage is not something that a policymaker would consider when deciding if family planning aid should go to Africa. If judges therefore allow affirmative teams to say things like “ok, do the plan, and also don’t drill in ANWR,” the negative teams’ disadvantage ground is dramatically curtailed. We will assume for the purposes of discussion that allowing non-intrinsincness arguments is probably a bad thing, since the line between what is intrinsinc and what is not is a blurry one and it draws into question whether any disadvantage that is not an impact turn is intrinsinc to the affirmative.

When analyzed closely, the desire to avoid non-intrinsincness arguments actually becomes an argument why alternative actor counterplans should be disallowed. The central link that the negative uses when making this argument is that if the judge is constrained to only considerations of action by the appropriate agent then no rational person would decide to not do the plan because it would result in that same decision-maker deciding to drill in ANWR. The more logical thing to do, as the negative would say, is to have the decision-maker do the plan and also pass ANWR (and thus, as an argumentum ad absurdum, alternative agent counterplans should be allowed). Three arguments make this objection a poor one. First, this worst would eliminate disadvantages that have an impact based off of actions by the same
decision-maker, which does not nix all disadvantages. International relations disadvantages, perception based disadvantages and inter-branch disadvantages could all still be run.

Second, most instances where a non-intrinsically argument could be made are merely reasons why the disadvantage is weak and can be beaten by simple analytical “no internal link” arguments. If the executive is the affirmative’s actor, the fact that assistance to Africa would cause Bush to no longer have the necessary political capital to veto an Iraq withdrawal bill may not be intrinsic to the desirability of executive action, but that’s because it is unlikely that Bush would actually change his mind about an Iraq veto because of political considerations. If politics did matter, then it is intrinsic to the affirmative because an individual would have to consider the probability that a politically important Bush would want to pick a fight with the Congress by vetoing.

Lastly, intrinsically arguments only matter from the perspective of the agent of the affirmative’s plan, not the judge. The judge isn’t roleplaying as any particular individual; he or she is a third party who brackets off the status-quo decision-making process of the USFG in order to be an impartial intellectual. At the end of the round, it is the judge, and not the USFG, who decides whether (and how) the USFG should act. This is why separating the judge from the decision-maker is vital to avoiding considerations of intrinsically. Arguments therefore should be designed to be persuasive to the judge, rather than the USFG. The judge could easily be persuaded that an alternate agent counterplan which doesn’t test the opportunity cost of the plan’s decision-maker is not a reason to reject the plan, and at the same time not evaluate arguments with the same political viewpoints a congressperson or other policy maker would use to evaluate them. If this is true, there is no reason the judge ought to consider non-intrinsically link answers.

Conclusion

We hope that we have convinced you to rethink reliance on alternate agent that as a viable component to a strong negative strategy. Even if we have failed in this task, we are confident that you are now in a good position to write powerful blocks that will make teams think twice about running alternate agent counterplans or alternatives against you. In any event, we hope that as you enjoy your debate careers, you learn to set and follow the best personal policies for yourself. If you do that, you will have gained as much from this activity as you could have from anything in life.

Tips

1. Control the role of the ballot. If the negative has not offered a coherent counter-interpretation to the framework that “the judge’s authority should be restricted to that of the affirmative’s decision-maker,” then their counterplan is not a reason why the plan should be rejected. In the 2ar you should know exactly what their counter-interpretation is, explain the disadvantages to it, and explain which of its advantages your interpretation captures. If you win that your interpretation of the role of the ballot is superior to theirs, you can point out which 2ar arguments become irrelevant because they presume an illogical framework for the judge’s authority.

2. Know when you’re losing. Very rarely will you be winning every argument on the flow, so sometimes you have to acknowledge that you might lose an argument, and make impact calculuses to compare standards. This is best done by making “even if” statements, and will increase the likelihood you will both win the debate and improve your speaker points. For example, “even if they win agent counterplans are fair, we are winning that real-world evidence outweighs fairness”.

3. Slow down! Judges hate when debaters make slippery, incomprehensible theory arguments at top speed because they are hard to flow and not fun to listen to.

4. Read evidence for the real world standards and the value of debate. We recommend you cut cards from this article, other old Debater’s Research Guide articles, and the sources listed in the bibliography of this article to strengthen the persuasiveness of your theoretical claims.

5. Be aware of the status of the counterplan. If the counterplan isn’t unconditional, you have to win that conditionality is bad in addition to agent counterplans had in order to win that they are a voting issue. In other words, don’t spend your whole 2ar on the agents debate if the ultimate consequence is just going to be that the counterplan goes away and the negative has a disadvantage that outweighs your advantage(s).

5. Lastly, and most importantly, be aware of judge’s personal biases. The debate community seems to be enamored with agent counterplans, so much so that when having an argument with a friend at the TOC this year about their legitimacy, he had to resort to asking random people who were walking by if they agreed with him that agent counterplans were good or not. It’s obvious that the position of this paper would not win a popularity contest. As a result, it is critical that when you have a judge who may not be crazy about voting on agent counterplans you must make a connection with them during your 2ar. Saying something like “I know in your heart of hearts you may not agree with us, but the 2ar has merely made arguments why alternate actor counterplans are ok, but has not made a single argument why they are necessary. If you really think we are wrong about the legitimacy of agent counterplans, then punish them for doing such a poor job of explaining why they should be allowed.” This will go a long way towards getting stubborn and obstinate judges to ignore their personal predispositions.

References


