

# REFLEXIVE FIAT: INCORPORATING THE OUTWARD ACTIVIST TURN INTO CONTEST STRATEGY

by Gordon Mitchell

On the [college] energy topic which called for the affirmative to reduce fossil fuel consumption, a team from Loyola advocated a plan which contained an implementation plank naming themselves as energy czars, with total control over U.S. energy policy. The debaters, Madison Laird and Todd Flaming, successfully used the energy czar plank in numerous rounds to turn disadvantages and fend off solvency arguments against their affirmative.

Last year, a Northwestern team advocated a counterplan which mandated that their coaching staff undertake a study of the panoptic dimensions of the criminal justice system. The Northwestern debaters, Sean McCaffity and Jody Terry, advanced the counterplan against Texas' ban pretrial services case, which claimed a panoptic power advantage. The idea of counterplan was the fact that since Texas' evidence suggested that the only thing necessary to solve the advantage was that a "hole be poked in the panoptic screen," an academic study would constitute a sufficient poke. The judges unanimously disagreed.

This year, a Wake Forest team advocated a counterplan which promised that they would personally contact human rights NGOs and plead for them to better value and respect Palestinian people and culture. The Wake Forest debaters, Sean Nowak and Armen Nozarabian, secured a negative ballot in a round against Texas with this counterplan, but have apparently not yet implemented its mandates.

These examples of debaters *themselves* assuming the role of agents of change push the envelope of legitimate fiat by raising the question: does the power (or privilege) of fiat extend to one's own self? Or to put the question differently, is fiat reflexive? Approaching the question from the received perspective, the answer clearly must be no: fiat only affords the option to defend governmental, not private action. In this piece, I question the normative worth of this received view of fiat and propose that there are good reasons for permitting the opportunity for debaters to present their own actions as voting alternatives in contest rounds. My argument will unfold in

the course of a brief three part discussion. In part one, I highlight the structural differences between received and reflexive views of fiat and consider how these differences shape the political trajectory the debate community as a progressive agent of social change. In part two, I sketch the basic features of reflexive fiat and illustrate its emancipatory potential as a social movement mobilization tool. In part three, I anticipate objections to the theory of reflexive fiat and offer constructive reactions.

## How structural features of fiat shape political trajectory

Most mainstream conceptions of fiat contain a common structural feature, the idea that fiat is a construction which affords debaters the latitude to make assumptions about external actors. The assumption that a specified agent will "carry out the plan" if the affirmative team proves its desirability inscribes this externality by structurally separating the advocate from the specified agent of change. Likewise, the idea that the negative team "has the power" to mandate an alternative course of action by the same (or another) external actor endorses this same kind of structural separation between debater and the agent of change.

Advocacy, under this view of fiat, takes place on the plane of simulation. The power that backs a debaters' command that "we mandate the following. . ." is a mirage, a phantasm allowed to masquerade as genuine for the purpose of allowing the game of political simulation to take place. Debaters have no real authority over the actors they employ to implement their ideas in plans and counterplans, yet the simulation of such authority is recognized as an essential fiction necessary to allow the game of policy debate to unfold.

One problem with approaches to fiat which feature such a structural separation between advocate and agent of change is that such approaches tend to instill political apathy by inculcating a spectator mentality. The function of fiat which gives debaters simulated political control over external actors coaxes students to gloss over consideration of their concrete roles as in-

involved agents in the controversies they research. The construct of fiat, in this vein, serves as a political crutch by alleviating the burden of demonstrating a connection between in-round advocacy and the action by external actors defended in plan or counterplan mandates.

A second manner in which the structural features of this sort of fiat tend to circumscribe active political involvement is through the containment of fiat action within the spatio-temporal boundaries of the contest round. The fiction of simulated authority evaporates when the judge issues his/her decision and the debaters disband and head to the next round. Advocacy, resting on the ephemeral foundation of simulation, is here a casual and fleeting phenomenon that carries with it few significant future ramifications or responsibilities. By cultivating an ethic of detachment of the actual *polis*, this view of advocacy introduces a politically regressive dynamic into the academic debate process.

Reflexive fiat, on the other hand, can be structurally differentiated from "external" fiat in four ways. First, reflexive fiat collapses the gulf separating advocate from agent of action; debaters assume the dual role of advocate and actor simultaneously. While the proposed course of action may ramify upon external actors, such reactions are not mandated by fiat, but are instead considered as policy effects. Second, because the advocate is physically present and in direct control of the range of possible actions available, the necessity of framing fiat power as simulation is obviated; fiat becomes a tangible mandate for concrete action, not just a hypothetical suggestion for simulated action by external actors. Third, by making a commitment to carry out future concrete action rather than temporarily simulating commitment to action, reflexive fiat explodes the spatio-temporal limitation of the contest round itself. The judges' affirmation of a course of action defended under a reflexive fiat framework entails consequences which extend beyond the time and place of the tournament. Fourth, the authority to propose courses of action using reflexive fiat does not flow

from the resolution, but is instead pragmatically grounded in the physical presence of advocates, underwritten by evidence of the advocate's speechmaking capabilities and proof of mobilization potential.

These structural features enable the theory of reflexive fiat to steer debate participants toward an activist political trajectory. Transcending the spectator orientation encouraged by the received view of external fiat, advocates who defend courses of action backed by reflexive fiat in contest rounds make the commitment to directly engage the issues they identify as pressing public concerns. Unlike the temporally ephemeral political commitment entailed in the defense of simulated plans, the commitment to future action made with reflexive fiat carries with it an outward activist imperative. This imperative is actualized with the judge's act of voting; in voting, the judge not only issues a competitive reward to the reflexive fiat advocate, but makes public the expectation that the specified mandates *will* be implemented in the manner described.

#### **Details and workability of reflexive fiat proposals**

In this section, I offer some preliminary sketches of different types of "action plans" which might be advocated using reflexive fiat.

##### *Counter-directional action plan.*

The negative could propose an action plan which would run against the general grain of the specific affirmative proposal. For example, on the current Middle East topic, against an external fiat plan calling for the U.S. to increase arms sales to Jordan, the negative might offer an action plan which mobilizes debaters to press for a moratorium on arms sales to the Middle East. The judge's ballot would serve as a trigger to ignite various forms of political pressure, such as Congressional lobbying, demonstrations against arms manufacturers, petition drives or direct-mail campaigns (Consider the following solvency evidence: "When President Eisenhower was asked on the day after his farewell address what he thought could be done to curb the growing power of the military industrial complex, he responded simply and firmly that the only hope was that an active, engaged citizenry would keep its power in check. It is time that the public stopped directing its anger at relatively small issues like the House Banking scandal or the size of the latest tax cut proposal and attended to one budgetary issue that more than any other may determine whether the United States remains a prosperous and free nation in the gen-

erations to come: the size and composition of its military budget" (William Hartung in *World Policy Journal*, Fall 1995, p. 27).) A more viable, limited action plan versus the Jordan case might call for campus demonstrations to locally reduce the largess of the military industrial complex. Such action plans could jibe nicely with case argumentation proving that arms sales almost always fail to achieve their national security objectives and end up compromising security by fueling the arms race or stopping the transition to defense conversion. Either action plan would serve as a reason to reject the affirmative proposal on two levels: 1) it would provide for the judge a concrete option to stem the tide of the MIC, thus giving uniqueness of the case turns, and 2) doing both the affirmative plan and the negative action plan *together* would compromise the mobilization potential of the action plan (*rhetorical* competition). Rhetorical competitiveness, on this account, would be comprised of the argument that the affirmative's advocacy of a pro-arms sales policy would tarnish their persuasiveness as rhetors entering the public sphere and calling for the reduction in the size of the military-industrial complex. In short, their suggestion to "do both" would involve assuming a hypocritical or inconsistent rhetorical stance in the public sphere, something which would limit their political efficacy and jeopardize solvency of the action plan.

*Unidirectional action plan.* Offering a reflexive fiat proposal along the lines of a traditional agent counterplan, the negative might wish to present an action plan which "does" the affirmative plan; i.e. uses debaters to implement the terms of the affirmative's external fiat mandates. For example, under the privacy topic, against an affirmative plan which called for a reversal of a particular court decision, the negative might have presented an action plan which directed debaters to organize an amicus brief initiative designed to influence an appeals court to issue a judgment consistent with the affirmative team's endorsement of external fiat, according to this argument, would represent political flight from activist engagement and warrant exclusive adoption of the action plan.

##### *Uniqueness-providing action plan.*

An action plan could be presented by the negative as a supplement to a conventional strategy that is sound in all respects save uniqueness. For example, on the criminal procedure topic, a popular position against

the affirmative case which banned victim impact statements was the argument that the affirmative's incremental reform of the death penalty machinery would quiesce the social movement pressing for complete abolition of the death penalty. This strategy was vulnerable on uniqueness grounds, because of the present weakened state of the death penalty abolition movement in this country. However, the negative might have successfully remedied this uniqueness problem with an action plan to spark the abolitionist movement through debater-driven initiatives such as the sponsoring of public debates, organization of protests, or letter-writing campaigns. The competitiveness story would have remained largely the same as before, except the action plan would provide for the judge an activist alternative to address the inherent problem (mere existence of the death penalty, rather than its arbitrary or discriminatory application).

#### **Anticipated objections and reactions**

**\* Since fiat is derived from "should" in the resolution, fiat power should be limited only to the agent specified in the resolution. Because the debate community (or individual debaters) are not agents in the resolution, reflexive fiat is illegitimate.**

While this argument may provide a coherent reason to limit the scope of *external* fiat (e.g. simulated advocacy of measures taken by institutions outside of the debate community) to only those actors specified in the resolution, it does not undermine the foundations of reflexive fiat, since the power to present one's self as an agent of change is implicit in the very process of partisan advocacy itself, and transcends resolutorial grounding. The mere physical presence of a speaker is sufficient grounds for a judge to entertain concrete proposals for action on the part of that speaker. The degree of confidence that a judge is willing to invest in any given action plan may depend on the past track record of the presenting advocate, and/or the quality of evidence documenting the mobilization potential of the network cited as the agent of change.

**\* Allowing reflexive fiat would lead to a flood of utopian, crackpot schemes that would waste our time.**

Because reflexive fiat discards the notion of fiat as simulation, and instead (*Mitchell to Page 20*)

*(Mitchell from Page 12)*

views fiat as a concrete course of action, it is bounded by the limits of pragmatism, and utopian examples can be challenged effectively on such grounds. For instance, as an example of reflexive fiat, Loyola's energy czar plan provision could have been easily discredited on the grounds that the Loyola debaters provided insufficient evidence to justify belief in their capability to assume the position of energy czars in the real world. They had no detailed lobbying plans, inside connections or strategies to gain such concrete political power, thus, their proposal was highly vulnerable to solvency attacks. By eschewing the power to directly control external actors, reflexive fiat sheds the utopian dimension that plagues the fantastic attempts to extend the received view of fiat.

**\*Reflexive fiat would unravel the basic fabric of debate as we know it and render the activity foreign and alien.**

If reflexive fiat became successful as a legitimate tactic on a widespread basis, it is true that the face of debate would change as contest rounds would come to resemble social movement organizing sessions more than hypothetical expert policymaking forums. However, with such a shift, there is no reason why many of the currently popular *topoi* of argumentation would have to be abandoned. Disadvantages, case turns and PMNs would still retain relevance as arguments serving to test the merits of the *telos*, or ultimate goals behind specific reflexive fiat proposals. The major new genre of argument likely to emerge would address the potential and proper political uses of the debate community's resources.

**\*Political activism is something to be undertaken outside of contest debates (the "wrong forum" argument).**

Because of the degree to which intercollegiate debating participants are attracted by the lure of competitive rewards, efficacious political mobilization on the part of the debate community may only be possible if activist imperatives are woven into the competitive reward structure itself. Reflexive fiat seeks to establish such a synergistic connection by transforming the judge's ballot into a trigger for outside activism. Successful activist initiatives would thus lay the foundation for future competitive rewards, and competitive rewards would, in return, stoke the momentum behind activist

initiatives.

Through the medium of contest debates, the debate community continuously reinterprets and adapts its normative principles and collective identity. Accepting reflexive fiat in contest rounds would thematize and spur reflection on major issues regarding the debate community's responsibilities to wider society and its potential as an agent of social transformation.

**\*While reflexive fiat might be OK when applied to individual debaters or teams, it enters the realm of utopian private fiat when extended to the debate community writ large.**

Should debaters advance reflexive fiat action plans calling for mobilization by more people than just themselves, proof would need to be supplied to demonstrate that such support could be obtained/would be forthcoming. This pragmatic check would prevent the advocacy of unrealistic action plans which would include reluctant participants.

**\*Reflexive fiat could be abused by debaters who promise extravagant activist efforts in contest rounds but then fail to follow through after securing competitive victories.**

While this "hollow promise" strategy might pay short term dividends, eventually, lack of follow through could be presented in future rounds by opponents to downgrade the credibility of reflexive fiat advocacy. Nozarabian and Nowak from Wake Forest currently face this contingency; having yet to have followed through on their reflexive fiat proposal to contact Middle Eastern NGOs (made at the Kentucky tournament), the credibility of their next attempt at reflexive fiat may be in jeopardy.

**Conclusion**

Critics of the academic debate community rightly deride its hermetically sealed orientation as evidence of abdication of the community's civic responsibility to funnel at least some of its considerable expertise and resources directly into the ailing body politic. A good argument can be made that one of the theoretical conventions that tightens this hermetic seal is the received view of simulated, "external" fiat. In this piece, I have proposed not an enlargement, but a retreat from this view of fiat as a step designed to facilitate an activist outward turn in academic debate. Putting the stamp

of legitimacy on the strategy of reflexive fiat involves sanctioning the merit of this activist outward turn and providing a useful outlet for its realization.

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