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Lincoln Douglas Debate

Topic Analysis



Resolved:
Vigilantism is justified when the government
has failed to enforce the law.

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TOPIC ANALYSIS BY GLENN PRINCE

The March-April resolution presents the opportunity to debate an important issue about the law. While this issue is perhaps not as salient in American society (although recent border incursions from Mexico and Canada may suggest otherwise), this topic presents a myriad of opportunities to talk about issues from non-United States perspective. This topic analysis will focus solely on how the terms of the resolution not only construct the relevant frames of the resolution, but how those terms can be used by both the affirmative and negative to construct case arguments necessary to winning the debate. This analysis is done in hopes that debaters will begin to use procedural and burdens debates to help craft more strategic outs on both the affirmative and the negative.

Terms of the resolution:

Vigilantism: This term has lacked formal definition for decades. However, this definition may be the crux of many debates you will likely have. Just asserting a random definition in hopes that your contentions will have big enough impacts to outweigh whatever definitional debate you may have could be fatal as what constitutes vigilantism is a hotly debated topic. Moreover, determining what you have to affirm or negate sets the parameters for the rest of your arguments and can be used to make entire AC or NCs disappear. Here are a plethora of definitions of this term and then an explanation of how they could be utilized in a debate round.

Webster defines vigilantism as a member of a volunteer committee organized to suppress and punish crime summarily (as when the processes of law appear inadequate).¹ This may be the most accessed definition, so an exploration of what constraints this puts on vigilantism is instructive. First, vigilantism is not a forced obligation, but rather an obligation one signs up for willingly. Moreover, vigilantism can

¹ Webster's Ninth New Collegiate Dictionary 1315 (1983).

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be a defensive or offensive position. In this world, vigilantism is justified BEFORE a crime has been committed. While this may seem like outside of the bounds of the resolution, affirmatives could argue that a previous history of the government failing to enforce similar notions of the law could justify preemptive action on the part of vigilantism. Negative's could argue that this part of vigilantism is particularly destructive because it would justify strikes based on the assumption that the government would not act to intervene, even though the government would not have yet taken the action. Second, the definition states that vigilantism is punitive. Vigilantism is not about simply thwarting or stopping crime from occurring; it's also clearly about punishing those who have committed crime. The negative can easily argue that this definition locks the affirmative into defending all modes of punishment as legitimate in a world of vigilantism as long as the outcome is summarily punishing criminals. The impacts off of this implication are enormous.

Taking the law into one's own hands: This definition could be extremely useful for the affirmative because it constructs a broad category of what is defined as vigilantism. The negative could also employ this definition to broaden the debate and utilize turns against the AC because this definition may justify a broad array of actions that are not necessarily proportional to the offense originally committed.

Derivative of the second definition, Black's Law Dictionary² defines vigilantism as "The act of a citizen who takes the law into his or her own hands by apprehending and punishing suspected criminals." This definition is useful in a few ways. First, it is the act of a singular individual, not a collective group of people. Second, vigilantism only exists if the criminals are actually apprehended. Thus, arguments that center on the need for vigilantism as a deterrent have no traction in a world where this is not a relevant question of vigilantism. Moreover, the action must be punitive. While not explicitly an act of violence is found in this definition, negatives could argue that the only way punishment is secured is by violence because the state is the only arbiter with the means to punish without violence (e.g.-the prison system). There is no functional way for a vigilante to punish then without the use of some form of violence

² *Black's Law Dictionary* 8th ed. (West Group, 2004)

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coercion. Again, this definition is also ends based. Vigilantism can only exist in so far as apprehension and punishment are visible, knowable outcomes of the action. There is no limit placed on the means, just an evaluation of vigilantism in terms of pure outcomes.

Extra-judicial self help: This definition explicitly notes that the action taken by the actor is outside of the normal legal process. Moreover, it implies that the act committing the act of vigilantism does so with little outside assistance as they are engaging in self help, rather than a collective action (individual v. militia action).

The righting of a criminal wrong by a wrongful means: This definition sets out a few additional parameters to vigilantism. First, the wrong must be criminal in nature, meaning that the government or society the action occurred in must deem the action as criminal. Second, the means is wrongful indicates that the action must knowingly break the law, or in the extreme, this definition indicates that the action of vigilantism uses a means that is not justified, meaning there may be no reason to affirm. The negative could also utilize this definition because if the action is not deemed as illegal by the society, then there is no justification for action because the government would not have failed to enforce the law where there is none.

O'Connor³ notes "Brown (1975) attempted to define vigilantism, saying it represented "morally sanctimonious" behavior aimed at rectifying or remedying a "structural flaw" in society, with the flaw usually being some place where the law was ineffective or not enforced. This is a complex socio-legal definition. It treats vigilantism as a societal reaction and not as a social movement. It also implies that the phenomenon of vigilantism will be short-lived since once a flaw is remedied, there is no reason to continue, and in any event, "sanctimonious" morality is unlikely to be sustainable. For criminological purposes, this definition treats the vigilante the same as the criminal. Both are victims of the same social

³ O'Connor, T. (August 20, 2007). VIGILANTISM, VIGILANTE JUSTICE, AND SELF-HELP *MegaLinks in Criminal Justice*. Retrieved from <http://www.apsu.edu/oconnort/3410/3410lect04a.htm>, Last Accessed February 15, 2009

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forces, the same "structural flaw," and vigilantes are the victim of a flawed society in the same way a criminal can be considered a victim of society. The difference, of course, is that the criminal is an enemy of society while the vigilante acts as a friend of society.” This definition can help the affirmative construct positions revolving around victim’s rights and recourse. If the vigilante is really engaging in acts of reclaiming personhood or getting their due, then this definition helps to construct the vigilante as a necessary component to a system that fails to remedy societal wrongs through judicial or legislative means.

Political violence against the state: Political scientists are fond of this definition. For them, this is a subtype of political violence. With this definition, groups like the Ku Klux Klan would be included because they are violently opposing the state. While it may seem that there is no lack of enforcement of the law, often hate groups appeal to legislation to justify their claims. Appealing to sections of the Constitution that talk about a well-armed militia and the right to bear arms, they view these sections of the Constitution as justifying their larger political behavior against the state. The negative could easily use this definition as a springboard for justifying why vigilantism even under the conditions found with the resolution is not justified because it opens the door for a plethora of justifications for violence as long as they are rooted in some notion of some law that is not currently being enforced.

Premeditation toward curbing evil: This definition argues that vigilantism is a constructive act-meaning that the action is implicitly to overthrow or displace some unjust order. The word premeditation is interesting because it also implies that the action is coordinated and planned. Thus, this definition would exclude things such as Good Samaritan Laws, the Self Defense Doctrine, Road Rage, and other spontaneously occurring actions because those actions were not planned. This definition also places vigilantism as a purely political action with a social aim. The action is justified because of some power vacuum found in the political environment and its consequences are justified because the intention was noble from the onset. In fact, vigilantism may be considered part of the definition of responsible citizenship because if the citizens were to ignore an action that called for a response in a non-governmental way, they would be violating the social contract they have between themselves.

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An action justified by its outcome of maintaining social order: The definition seeks to evaluate vigilantism only by the outcomes it produces. This definition is also used by its antonym, domestic terrorism, because domestic terrorism seeks to undermine the social order usually through physical violence. In this vein, if an individual or group takes an action and that action maintains existing social order, then the action is justified. There are several things to note about this definition. First, it ignores all means based considerations. Vigilantism is always justified if the action maintains a broader social order. Even if several minority groups were to be injured in the process, as long as social order is maintained, the nothing is lost under this definition. Moreover, this definition clearly delineates that the action must maintain, not alter or change, the existing social order. If the affirmative or negative presumes to change the social order in some even minor way, then the social order is not maintained. This definition is also a bit vexing because it does not specify who may take action against an unjust government. This definition can be used the affirmative and negative to try to eschew means based arguments or explicitly by the negative if the affirmative claims that vigilantism is necessary to alter or overthrow the existing regime.

Burrows⁴ defines vigilantism as having 5 characteristics: (1) are members of an organized committee; (2) are established members of the community; (3) proceed for a finite time and with definite goals; (4) claim to act as a last resort because of a failure of the established law enforcement system; and (5) claim to work for the preservation and betterment of the existing system. This definition can be utilized in a few different ways. For the affirmative, the sets a clear standard by which to evaluate the actions supported by the affirmative. Since none of these standards are overreaching, this definition places burdens on the affirmative, but does not require them to do anything ridiculous. For the negative, if the affirmative fails to meet one of these 5 criteria, they can use this as an off-case position indicating that the proofs given for the resolution by the affirmative do not affirm because they are not examples or instances of vigilantism, but rather examples of some nebulous notion of violence against the state.

⁴ BURROWS, WILLIAM E. *Vigilante!* New York: Harcourt Brace Jovanovich, 1976.

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Justified: This term is used in so many LD resolutions, that I will not belabor the discussion long. Both sides need to construct a definition of just (either at the top of the AC or in the value debate) that gives equal access to both sides. HOWEVER, this is not to say that debaters should not be strategic in their appropriation of whatever definition of justice they pursue. Here is an example of a more potentially strategic take on this term:

To demonstrate sufficient legal reason for: This definition of justified places the question in the legal context only. Thus, appeals that fail to rationalize or justify behavior in existing legal structures would not be permissible under this interpretation. This can also help the affirmative if the affirmative can find a legal justification for doing so because then it proves that not allow vigilantism would also be a failure to enforce the law.

The government: The only important thing to note here is that the vigilante's opponent must be a formally recognized government. Moreover, accessing the validity of this action is only important as far as it responds to a governmental action. I can't imagine a very productive burdens or definitional debate on this particular term unless the AC affirms action that is extra-governmental or takes action against any particular enemy. However, this is seemingly impossible since only formalized governments generally make structured legal systems.

Has: This word just implies that the action occurred in the past. Thus, vigilantism cannot be a response to actions they think the state might take in the future OR to actions they may think the government will not take in the face of violation of the law. Thus, the affirmative cannot claim advantages of stopping crime preemptively, only that these actions would be corrective of past wrongs.

Failed: A reading of this topic that will likely occur is to misrepresent this strength of this term in the resolution. Negative teams will likely try to design positions/burdens arguments that indicate failure is an absolutist term that implies that the government committed a wholesale, 100% error and that if the affirmative cannot prove sufficiently that the government did not totally renege on its obligation, then

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you cannot affirm. However, most affirmative debaters simply need to make arguments based on the actual definition of the term. A quick look at the most common definition indicates that fail simply means “to prove deficient or lacking; perform ineffectively or inadequately.” Thus, any burden the negative e attempts to place on the affirmative should be easily taken out by any common definition by the affirmative.

To enforce: This may be the other key phrase in the resolution. A key note here: just how much enforcement was meant to be placed into the resolution? If the government means well, but is unable to enforce the law, is vigilantism unjust? If enforcement of some laws is impossible, do vigilantes still have the right to exercise force? Reading this resolution in some of these ways gives the affirmative too much latitude. If the affirmative can simply point to minor enforcement problems, but the INTENT of the government is to prohibit an action, can the affirmative still win by simply providing that argument? None of these answers are clear, but the implications of these questions fundamentally change the debate on both sides. Determining the answers to those questions is yet another way to formulate and deploy burdens arguments in LD. Literally, then, the first important part of this word is that it indicates that simply having a written law does not divorce the state from enforcing the law. Ergo, even if the state has a law that would prohibit actions that vigilantism seeks to rectify, the mere existence of the law would not dejustify their action. The second important implication of this term is that punishment may or may not central to the question of enforcement. While some definitions explicitly include this feature, others are silent on the issue. For the affirmative, vigilantism may be justified even if the state has held a trial because a proportional punishment is not part of enforcement of the law the government has created. Examining a major definition of this term will elucidate some other arguments that may be placed into the resolution by the burdens inherent to those terms.

Black’s Law notes that enforcement is “to give force or effect to (a law, etc.); to compel obedience to.” What constitutes force or effect is not quite clear. What is clear is if the government fails to curry obedience to the law of the land, than they have failed in one of their primary obligations. However, how a state compels obedience to a law is not clear either. Thus, the affirmative may have great latitude

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in determining when a law has actually not been enforced by determining what the derivative words in the definition actually mean. If the affirmative can argue that the government must exercise hard force to gain compliance and that the state is unwilling to do so in some cases, the affirmative can then claim that vigilantism is justified because it is the only way to rectify enforcement problems within the law. This definition also echoes my earlier comments about spirit vs. letter of the law and the availability of burdens arguments surrounding this controversy.

I hope you have enjoyed this different look at the topic. By encouraging debaters to deploy different burdens and procedural arguments in each debate, LD debates can be reframed in ways that the value and criterion debate were originally intended. Rather than dismissing the arguments above as “not valuable to LD,” it is more constructive to view them as adding to the offensive capabilities of both the affirmative and negative.

TOPIC ANALYSIS BY ADAM TORSON

This year's March / April resolution presents several interesting questions of both substance and interpretation. I will start by talking about some interpretation issues and move on to suggest what some common positions may be.

Interpretation

What is vigilantism?

The defining concept for the topic is "vigilantism." The term conjures images of the old west or masked super-heroes fighting crime. Everyone, judges included, will have intuitive sensibilities about what vigilantism entails, mostly negative. That presents several challenges and opportunities. On the level of rhetorical appeal, negatives will want to invoke the most negative archetypes of vigilante justice. Affirmatives will want to push the focus into conflict scenarios where vigilantism seems more reasonable and compelling.

More important than this intuitive appeal, though, will be the effort to substantively flesh out the potential technical meanings of the term. If we start to parse out the various features that we associate with vigilantism, you will find ample ground both to contest intuitive meanings of the term, and also perhaps fertile ground from which to construct positions.

Vigilantism can presumably take many forms. The term is ambiguous, generally, as to whether it is carried out by groups or individuals, in what circumstances, or with what objectives in mind. Despite this level of variation, there are a few things we can probably say about what vigilantism should entail. First, it is important to note that generally speaking the term vigilantism denotes action that is both retroactive and punitive. In other words, vigilantism is meant to take the place of an ordinary criminal justice system. That means it should be distinguished from actions that we would generally characterize

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as self-defense, at least directly. It does not mean taking the law into your own hands when presented with an imminent threat of bodily harm. Vigilantism denotes an objective to redress a wrong already committed, not to prevent one in the first place.

Though this probably limits some compelling ground the affirmative might otherwise be able to claim (vigilantism = self-defense), it also undercuts some of what the negative will want to forward as the dominant conception of vigilantism. Vigilantism would denote a more narrow set of circumstances than simply pure anarchy or suspension of the law. It does not mean doing violence to whomever you want, whenever you want, in response to any perceived offense. Rather vigilantism seems to stem from a conviction that existing system of redressing wrongs has failed or is inadequate and so those wrongs need to be redressed for a more informal, ad hoc approach.

This brings me to the next important aspect of vigilantism, which is that it connotes an approach that lacks meaningful procedures in the same way traditional criminal justice systems do. In a standard system, rules of law are presumptively established before imposing punishment for their violation is permissible. Such prosecutions are characterized by the existence of settled, standing procedures which are supposed to ensure that the accused have a fair opportunity to defend themselves and that the charges be proved by convincing evidence to neutral judges or juries. Vigilantism, as a general rule, seems to lack these formal procedures. Instead we generally understand it to be characterized by more informal, ad hoc decision making processes. By its nature it is difficult to say that it has settled, standing procedures, although it may be acting in order to enforce existing legal rules that government is either unwilling or unable to enforce.

This feature of vigilantism also presents opportunities for both sides. Negatives will obviously criticize the more informal approach to law enforcement as a kind of “mob justice” which enforces ex post facto laws with little check on unfair or erroneous accusations. They will emphasize the fundamentals of due process and the rule of law as critical safeguards of both individual liberty and the collective efficacy of social institutions. Affirmatives, on the other hand, will point to the strengths of less formal procedures,

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especially in light of circumstances where government is failing to enforce standing laws. Traditional procedures are often long and tedious, and strict procedural requirements often allow results that seem inconsistent with community sensibilities about what constitutes a just punishment. For example, a criminal may plea bargain to avoid serious punishment, or exploit a legal loophole to escape punishment altogether. On the other end of the spectrum, formal procedures of criminal justice often fail to take into account nuances that some people consider relevant, such as the idiosyncratic circumstances under which crimes were committed or the background of criminal defendants. Affirmatives may try to argue that ad hoc determinations of blameworthiness are preferable because they better account for community preferences and the particulars of a given situation. This may be especially appealing where government is using the formalities of normal criminal justice to systematically avoid certain kinds of criminal prosecutions – i.e. where the local criminal justice system is corrupt or applies the law unequally to people of different social groups or classes.

A related aspect of vigilante justice is that the mechanisms that it employs to carry out punishments tend not to be duly authorized by some recognized authority. In those things which seem to be quintessential exercises of governments' coercive authority, particularly the enforcement of criminal law, we often ask on what grounds such actions can be legitimated from the perspective of morality or political theory. In other words, what makes a system of criminal sanction legitimate? In democratic nations this question has often been answered by saying that governmental institutions are legitimate when they derive their power from certain procedures. Laws and institutions are authorized by democratic decision making mechanisms such as elections or bodies of elected representatives, and insofar as they are consistent with certain substantive guarantees (such as constitutional rights) and legal checks (such as an independent judiciary), they are considered "legitimate." Put another way, they satisfy the conditions under which we believe that citizens should be obliged to obey their authority. This leaves open many questions, however. Absent conditions that allow for such procedures, is there a different way criminal sanctions can be legitimated? If so, do they still have to conform to the kind of side constraints I mentioned above? Is any criminal sanction which does not follow traditional democratic procedures an act of vigilantism?

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This has a number of implications for both affirming and negating. Affirmatives may benefit from trying to narrow the question of the resolution to whether vigilantism can satisfy some fundamental test of legitimacy. It may also criticize the idea that legitimacy can only derive from a set of existing institutions which may themselves be biased or ineffective – as may particularly be the case if government is failing to enforce the law. Legitimacy, they may argue, has more to do with the protection of certain fundamental interests or community norms than it does any particular set of formal procedures. Negatives, on the other hand, will want to emphasize the importance of authorization from some legitimate authority. Absent inclusive mechanisms of deliberation and decision-making, criminal sanctions may reflect only small segments of the population or the transient whims of public opinion. Procedures attempt to secure guarantees of substantive rights such as political and civil liberty that may be a central concern for public policy and as a basis of legitimating social institutions in general.

This brings us to the last major question with relation to the nature of vigilantism. In most people's imagination, vigilantism involves the use of violence and a sort of mob mentality. But is that necessarily the case? Most dictionary definitions simply say that vigilantism has to do with taking the law into your own hands. On the other hand, it seems difficult to imagine a vigilante who goes around giving parking tickets.

All this presents a dilemma for the affirmative. If when affirming you try to frame the round such that you do not have to defend acts of violence generally and acts of mob violence particularly, you are able to get out of some of the more intuitive disadvantages of affirming. However, it is also difficult to claim substantial concrete impacts when vigilantism is nothing more than finger-wagging. Negatives will want to exploit this tension. Do not permit the affirmative to link out of the principle disadvantages associated with vigilantism and still claim all the benefits. This demonstrates the importance of employing a fleshed out conception of vigilantism on both sides.

What does it mean for an action to be “justified?”

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Though we often run into resolutions in which the question is one of “justification,” it is useful to think through some of the potential implications of the phrase.

The first major question that presents itself is what kind of normative rule we ought to appeal to. Does “justified” mean legally justified, morally or ethically justified, politically justified, etc.? Do particular situations require appeals to different kinds of normative standards than others? The context for what sort of justification is required is obviously crucial.

This kind of standards analysis will be one of the crucial ways that affirmatives frame the debate to their advantage. If the resolution appeals to justification in a certain way – i.e. moral justification as opposed to legal justification – then affirmatives will be able to argue that certain kinds of impacts are not relevant to the question presented. If an affirmative argues, for example, that for individuals, ethical justification ought to trump any kind of legal or political obligation, then perhaps she can argue that certain concerns that would fall into the latter such as proper procedure or legitimate authorization are secondary considerations when the individual is faced with a personal moral dilemma. On the other hand, the affirmative could use this type of analysis to broaden, as opposed to narrow, the types of impacts that are most relevant. For example, affirmatives might argue that justification is a sort of ad hoc determination in matters of public policy – a sort of generic “public justification” to which all normative concerns are relevant. The principle advantage here would be the ability to collapse most standards into a kind of ultimate normative rule. This allows affirmatives to weigh the impacts of negative cases against affirmative impacts even if those standards are supposedly framed as “side constraints” or some other layer of analysis that is supposed to come logically prior to the AC. For example, where a negative is running an argument about how a particular due process consideration ought to be a side constraint when determining whether criminal sanctions are justified, the affirmative might argue under a more generic normative justification paradigm that while important the advantages of protecting that procedural right ought to be weighed against the disadvantages of dogmatically protecting it no matter what the consequence. Affirmatives will only want to adapt this latter tactic, however, if they are

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confident that the impacts coming out of the AC will actually outweigh the impacts coming out of most NCs on just about any metric.

Either affirmatives or negatives may narrow the resolution even further still. Perhaps we are talking about justification solely in the context of criminal sanctions. In that case, the standards would have to answer the question “what makes the imposition of a criminal sanction justified?” We can already see fertile ground opening up for both sides of the resolution. The focus on “imposition” seems to highlight the role of individuals and perhaps individual moral codes in justification. It also raises the possibility that justifying criminal sanctions may be different than justifying other acts traditionally left to government; for example, it would be harder to justify an unauthorized entity enforcing criminal laws than it would be to justify that same entity cleaning the streets. On the other hand, it may be that the enforcement of criminal laws are more important than cleaning the streets, and so because the consequences are more dire we are more apt to those who are not directly agents of the government take the law into their own hands. Alternatively, one might frame the question of justification as a question as to when a person is justified in breaking the law (as most vigilantism would be). That opens up the door on a whole range of literature about when a person is obliged to follow the law and under what conditions they are justified in going beyond its bounds to achieve some notable objective or fulfill some moral obligation. In any case, defining the scope of the resolution very particularly can be a good way for both sides of the topic to exclude a significant number of the generic arguments the other side wants to make.

Another aspect of justification that both sides will want to consider is how that term is different from other kinds of normative claims about actions. To say an action is justified is not necessarily to say that it is either good or obligatory. Often times when we say an action is justified, we are expressly acknowledging that under ideal circumstances we would not want someone to take that action but given these extenuating circumstances their actions may not be blameworthy or necessarily require punishment. Moreover, when we say that something is justified we usually mean to imply that that action is permitted but not required. In other words, if I say that someone is “justified” in defending

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herself from an attacker, I do not mean to say that she **MUST** do so. Rather, justification simply means that a person is not blameworthy for exercising their discretion in some way.

This has important implications for both sides. Affirmatives will want to emphasize that they are not advocating vigilantism in any given circumstance, but only under the unique circumstance where government is unable or unwilling to enforce the law. They can argue that while vigilantism may be undesirable generally, it is preferable to an alternative where the law is not effectively enforced at all. Further, affirmatives will want to frame the resolution so that they need not defend an obligation to impose vigilante justice – a claim that would almost certainly be more difficult to justify. Rather, they simply need to argue that a person can't be blamed for carrying out vigilante justice given the extreme and unusual situation in which she finds herself. Under those parameters, an affirmation becomes much more intuitively appealing. Negatives, on the other hand, will want to resist this kind of narrowing of the resolution by invoking ordinary situations in which the government fails to enforce the law, and by arguing that justification is a stronger moral statement than simply a post hoc determination that someone had little choice. In other words, justified might be different than excusable, and negatives will want to work against the affirmative conflating the two. This will again have to do with the particular contextualization of the term “justified” that you employ.

What is meant by “...when the government has failed to enforce the law?”

Perhaps the most apparent ambiguity in the resolution has to do with what is meant by a government failure to enforce the law. Governments fail to enforce laws every day for perfectly ordinary reasons. There is obviously no way to perfectly monitor compliance with every law at all times in all places. Even if there were, it is always the case that law enforcement officials have to make choices about how to distribute their resources most effectively to maximize the value of law enforcement.

Given that, the question is what the affirmative burden should be. It is likely unreasonable to expect the affirmative to justify vigilantism whenever any decision is made not to perfectly follow the law, because

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that would justify vigilantism all the time. But how do you draw the line as to where there is enough of a failure that the affirmative has to defend vigilantism as a response? There may be several ways to draw that line. Two immediately come to mind. First, the resolution uses the term “the law,” generically. Debaters can argue that a failure to enforce the law doesn’t mean a failure to enforce a particular law but rather a general inability or unwillingness to enforce the law. That would mean that there is some kind of systematic failure as opposed to ordinary choices about how to balance resources. This approach would focus less on the degree of failure than on the nature of that failure. Is it systematic, for example a failure to enforce certain laws, or a failure to enforce laws insofar as they protect particular groups? An example of this scenario is when the government can’t generally enforce the law because of a severe resource disparity. Alternatively, it may be when government systematically refuses to enforce certain kinds of laws, as when, for example, certain states resisted federal mandates to integrate public schools, or when crimes against certain populations are not investigated as thoroughly as crimes against other populations.

Second, a debater may argue that a failure to enforce specific laws has to be general enough so as to undermine “the law” as a system entirely. This type of description envisions a failing state where the inability or unwillingness of government to enforce the law has so thoroughly undermined citizen’s confidence in the law that they either disregard it entirely or engage in self-help. In other words, this approach would frame the resolution as a question of what one can do when the government is entirely unable to efficaciously enforce law at all.

In addition to the degree of failure that triggers the resolution, there is also ambiguity as to whether that failure must be intentional. In standard usage, when we say that someone has failed to do something we usually mean that they either forgot or tried and failed. This implicates a whole set of conflict scenarios in which the government is plainly unable to enforce the law, as in cases of severe resource disparity or failing states. On the other hand, we sometimes say that someone has failed to do something when they purposefully refrain from carrying out some duty or other action they are expected to do. This implicates a whole different set of conflict scenarios about government agencies purposefully failing to enforce

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existing laws. Both may be accurate, but narrowing the focus may be useful for either side so as to articulate a more narrow and contextual normative rule to employ in this situation.

Finally, this question of the degree of failure implicates another important question, which is whether the amount of vigilantism that is justified is proportional to the failure to enforce the law. In other words, does the affirmative have to defend vigilantism only insofar as it is necessary to redress the failure to enforce on the part of the government, or must it defend any and all vigilantism once government has failed to enforce the law? As a general rule affirmatives will obviously want to only defend the former, whereas negatives will want to force them to defend the latter. It is much more intuitively compelling to defend limited vigilantism to make up for the failure of officially sanctioned law enforcement bodies. This is one area in which affirmatives have to be careful, because many of the positions that will be commonly employed will defend vigilantism generally. For example, many affirmatives will no doubt run social contract arguments which essentially say that any time government has failed to enforce the law it has failed to meet its obligations under the social contract and so citizens are no longer obliged to uphold their obligations, i.e. refrain from self-help justice. That position, however, will require affirmatives to defend any exercise of vigilantism even where the government's failure to enforce the law is limited. That is probably taking on an unnecessary burden.

Framework Strategies

As is always the case, framework is an important strategic mechanism debaters employ to gain an advantage in the round. Speaking in broad strokes, there are a few things each side should keep in mind when framing the resolution as a strategic matter.

As a general rule, affirmatives will want to employ their framework to contextualize the resolution as much as possible and narrow the question as much as possible. Generic defenses of vigilantism are unlikely to be compelling given most judges intuitively negative reaction to the concept and the solid negative ground about procedural fairness. Limiting the resolution to concrete situations in which the

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manifest necessity of some form of law enforcement outweigh the protections these procedures provide will put affirmatives on much firmer footing. It will also be useful to narrow the resolution by clearly defining what it means to justify vigilantism in some of the ways discussed above. It will be difficult to claim weighty, concrete impacts in the narrow situations you will want to focus on, so more formal arguments about what it takes for actions to be legitimate will help to focus your advocacy and make it less susceptible to simply being outweighed by the prospects of negative impacts when vigilantism is abused.

Because vigilantism is intuitively problematic, negatives will want to force affirmatives to be specific. There are not many conflict scenarios where there are concrete significant impacts that can be derived from vigilantism and only vigilantism, so don't let affirmatives dwell in the ambiguity of formal conditions for justifying criminal sanctions. Make them prove that the real consequences of taking the law into your own hands outweigh the harms, and that there are not significant alternative ways of getting the benefits of vigilantism – for example by simply working to reform government so that it enforces the law. You also want to minimize the impacts affirmatives will be claiming in relation to various procedural objections that you might want to raise, such as importance of protecting due process rights.

Now that we have a sense of the work that needs to be done to interpret the resolution and some of the overall strategies you may want to employ, let's take a look at some specific positions.

Affirmative Positions

There are several core affirmative positions that present themselves. This is by no means an exclusive list of basic affirmative positions. Some may be the basis for compelling case positions, others may not be, but it will be important to be prepared for all of them.

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Probably the major affirmative position will be a basic social contract argument. On this account, people agree to refrain from self-help violence only so long as the government agrees to protect them and their interests. If government fails to uphold its end of the bargain, people are once again justified in using violence to protect themselves and to deter acts of aggression in the future. Though this position is difficult to reconcile with the actual practices which we understand to confer legitimacy on criminal sanctions, these arguments do form the basis for lots of traditional theoretical reasons why government is allowed to do what it does, i.e. the condition under which people would consent to government, etc.

A second possible affirmative position is to frame vigilantism as a kind of self-defense. As discussed above, vigilantism does not operate in the way that traditional self-defense does because it retroactive and punitive. Despite that, there are certain circumstances in which you could describe vigilantism as an act of self-defense. The criminal sanction normally provides a deterrent effect. People don't commit crimes even if they are inclined to do so because they fear they are going to be punished. But where government fails to enforce laws to protect particular populations because they are historically or politically marginalized (or for whatever reason), circumstances may arise where there is functionally immunity for crimes committed against certain people. Where this is the case, vigilantism may add that deterrence by threatened sanction. Brief research will reveal several cases where minority communities have resorted to self-help to respond to the marginalization of their claims to protection by the criminal law.

A third possible affirmative position would simply be to argue that vigilantism is better than anarchy. Where allowing crime to go undeterred would lead to a major breakdown in the social order, vigilantism, though not perfect, may be the only effective response. This is sort of a "somebody's gotta do it," argument. If criminals aren't punished for their behavior, then crime is incentivized and the basis for social cooperation is undermined. The key to such a position is to provide a compelling impact story about what happens when laws are not effectively enforced. If you can find good evidence about the violence and uncertainty that follows from the outright failure of the state, then you can make a

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compelling claim that the benefits of maintaining order in the face of social disintegration outweigh the harms of vigilantism.

Finally, affirmative positions might focus on other important functions of punishment. Many argue that punishment serves to express community condemnation. This function can help to foster social integration and inculcate community mores. Where the system of punishment is defunct this expressive function is denied. This may undermine community norms and fail to reflect democratic consensus around the basic organizing principles of a society.

Negative Positions

There are also myriad negative positions. Here are a few.

First, there are many positions deriving from the general idea of due process. Various assurances of fair procedures are central to many rights schemes and often form the basic foundational principles of democratic constitutions. Imposing procedural constraints on the ability to employ criminal sanctions is often central because the criminal law can be so readily used to undermine core social ideals. Vigilantism is of course open to numerous objections on due process grounds, as it is practically defined as the imposition of punishment without due process. Nearly every procedural side-constraint you can think of is ground for a negative case, defensive takeout, other positional level objection or off-case position. Here are just a few of those protections that vigilantism threatens: the right to trial by jury, the presumption of innocence, protection from cruel and unusual punishment, the right to the assistance of counsel, the right to confront your accuser, the right to speak in your own defense, and the right to be confronted with the evidence against you. Though it is not necessarily the case that vigilante justice will ignore all of these protections, it seems rather improbable that it can respect them all.

A second major negative position will focus on the rule of law. The idea that society should be governed “by laws and not men” reflects a number of normative values about what makes a government legitimate.

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It stands for the principle that there should be government by objective rules that are publicly justifiable, not ad hoc determinations by individuals acting on their subjective whims. Undermining the rule of law, negatives can argue, is arbitrary and generally unfair. Absent an objective system of adjudication in which punishment is imposed by neutral third parties, disputes may devolve into cycles of revenge. Self-help responses to violations are often severe and disproportionate so as to deter future violations, but this often means that the punishment meted out is not consistent with an offender's due. It is often manifested by a kind of mob justice in which fairness is substituted for the blind rage of the masses.

Finally, one of the most compelling negative positions is also one of the simplest. Instead of turning to vigilantism, perhaps we should simply take proactive steps to make the government more able to enforce the law. Though this isn't always practical, especially in the short term, the most intuitive response to most situations where the law is not being enforced is to advocate that government be reformed so that it can be. This alternative will often at least mitigate the long term implications of a system where laws are not enforced, and make it easier to outweigh shorter term impacts.

Conclusion

There are a number of interesting possibilities presented by this topic. If you put in the time to think through the various interpretations available, I'm sure you'll find ample ground for compelling positions. Good luck to everyone.

TOPIC ANALYSIS BY CHRISTIAN TARSNEY

I like this topic and I don't. On the one hand, the subject matter is interesting and fun to debate—everyone loves vigilantes. There's room for all sorts of debates, including framework/interpretational debate, standards debate, ends-based and means-based case positions on both sides, parametricized affirmatives, et cetera. There's ground for good, stock, old-fashioned social contract and Kantian retributivism cases, but also ground for crazy link stories ending in huge impacts and probably plenty of sexy critical/pomo ground that someone who's not me can tell you about, which should be good for those of you who have to debate this topic at NFL Qualls, State, or other tournaments with large and diverse judging pools.

On the other hand, the topic is brutally hard to research, invites lots of rote applications of generic philosophy without drawing in unique, under-utilized bodies of literature, and doesn't seem to have any particular contemporary relevance the way the last two topics did. Worst of all, it's one of the far too many topics written under the influence of the belief that vagueness and lack of context in topic wording turn debates into probing, substantive discussions of deep philosophy. What of course actually happens, and will happen all too often on this topic, is that debates get turned into giant, messy, unpleasant muddles of framework debate as debaters try to figure out how to affirm or negate a general claim which is clearly true in some instances, clearly false in others, and in proportions which are patently impossible to quantify (“53% of all acts of vigilantism are justified, to 47% which are unjustified, so you affirm on balance!”).

On the whole, I think the topic will be one that starts out bad and gets better; people will slowly find what literature is out there, norms of resolutorial interpretation will develop that will keep framework debate to a minimum in most rounds, debaters will start writing more creative case positions to escape the large blocks to the two or three stock positions on each side that most everyone will have by the second or third tournament, and the inherent interest of the topic. We debated this topic for a week at a

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camp I taught this past summer, and it took me until about the end of the week to start enjoying the rounds, but we did get there.

If nothing else, remember the same age-old truth that has made felon disenfranchisement and international courts so fun to debate: At least it's not the trolley-problem topic!

I. Some general thoughts

Let's get the ugly truth out of the way quickly: there is very little directly topical literature on this resolution. Very few philosophers, political scientists or legal scholars have attempted to construct generalized defenses of or attacks on vigilantism, and though some of the more general, theoretical work done by people like social contract theorists has relatively clear and direct implications for the moral defensibility of vigilantism, most of these authors do not bother to draw those particular implications out explicitly, and certainly not in a way that's easy to card. Doing a JSTOR search for "vigilantism" will not give you the list of twenty good, solid, topical, card-able articles that a Lexis search for "International Criminal Court" gives you for that topic. I may just be a terrible researcher, but in a week of researching the topic and managing half a dozen kids researching it, I did not see a single really good, topical article in an academic journal with warranted cards that made an argument for affirmation or negation that could go into the body of a case without lots of extra analytic links to make them do their job.

There are a couple ways to deal with this problem. One, which all of you seem to have already figured out, is to buy briefs. But you probably want to do something more than that. You can also just resign yourself to running generic positions with mostly generic evidence, or just run very card-light cases with tons of analytics, or just wait until you start competing on the topic and steal cites for the best evidence you see everyone else running; there's bound to be at least some good stuff out there, and a whole tournament's worth of people will probably have found at least a decent amount of it. Tracking down cites is actually something you should take quite seriously on this topic, and on any topic where good

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cards for stock arguments are hard to come by, but if you want to go into your first tournament prepared, the best advice I can give you is to try some library research. I'll admit that, despite advocating library research for a long time, my team and I haven't done any of it on the last four or five topics because the quantity of good stuff online, both academic and non-academic, has reached the point where you're never going to come close to exhausting it, and if there's a choice between carding a good book and carding a good Lexis article the Lexis article is simply about three or four times faster to card, meaning three or four times as much good evidence in the same amount of time. But, on a topic where the online offerings may run dry fast, the depth of a good university library (don't, whatever you do, try to research this topic in a public library, let alone a school library) will give you lots of places to look and probably contain at least one or two weird, barely-read books that turn out to be gold mines for topical cards. And on a topic where your evidence can be postdated by a millennium or two without it making a difference, the datedness of most of the stuff you find by stripping the shelves is not a reason to prefer more recent online lit in the slightest.

An introductory section like this would normally contain a discussion of definitions of various terms in the topic, but I don't think there's very much worth saying about any of the individual terms in the resolution. The only term to really worry about defining, at least in 95% of rounds, will be "vigilantism". A fairly minimal constraint on what counts as vigilantism is that vigilantes take actions which are not just extra-legal but actively illegal. In other words, a citizen-detective who gathers facts about an unsolved crime by simple observation or from the public domain, analyzes them, and makes his conclusions public or turns them over to a law enforcement agency is not a vigilante, even though he has acted outside of established law enforcement channels to remedy a failure to bring a criminal to justice. Neither is someone who harms a criminal in direct, legally sanctioned defense of himself or another. (My hypothetical non-vigilantes are both male. Live with it.) Just about every definition of "vigilante" or "vigilantism" you find will say this, and using one that doesn't makes the negative's job very, very difficult unless the affirmative is burdened to defend all forms of vigilantism, including illegal ones, anyway, in which case it does nothing at all. So, a vigilante is someone who breaks the law to punish lawbreakers, and you shouldn't use any definitions that say anything substantially different from that.

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It also occurs to me that it might be worthwhile to briefly point out that “enforce the law” should probably be read as implying not reliable prevention of crime, which is pretty much unattainable except in *Minority Report* which was a terrible movie anyway, but reliable punishment of crime coupled with some credible attempt at prevention. This distinction will only be important with respect to a very few arguments, but it is an interesting one conceptually—we think of law intuitively as a set of negative imperatives (“Don’t kill people.”), but most of the time in practice it acts more like a set of conditions specifying what the state will do to you if you take certain actions (“If you kill somebody, which we almost certainly can’t stop you from doing if you really want to, we’ll stick you in San Quentin for a bunch of years.”), and the job of “law enforcement” is to carry out the instructions laid out for the state by those conditions rather than to enforce the instructions the law gives to private citizens directly. The cases where the government can actually *prevent* crimes directly are the lucky exceptions. Something to ponder...

II. Affirming

This is one of those topics where affirmation has tons of intuitive appeal, but that appeal doesn’t readily translate into strong, strategic case positions. The intuitive appeal of affirmation stems largely from the fact that nearly all our paradigmatic images of vigilantes, and of the sorts of circumstances that give rise to them, cast them as the good guys, fighting an incompetent or corrupt system to protect the lives of thousands of innocent people from psychotic nihilists wearing sloppily applied face paint.

The difficulty of turning this intuition, which if translated directly into words would come out as something along the lines of “Na-na na-na na-na na-na Batman!”, into an AC is that none of the conditions that frame this image of vigilantism are actually given to us by the resolution. All we know is that “the government has failed to enforce the law.” We don’t know what law or laws have not been enforced, why they haven’t been enforced, or how the vigilantes in question are going about remedying

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the situation. For all we know, Batman could be lurking in the bushes outside Michael Phelps' house waiting to beat him silly with a crowbar because the DA decided not to press possession charges.

That being so, the affirmative is going to have to do some frameworking to exclude those sorts of possibilities. One easy way to go about doing that is to argue that the affirmative's textual burden is only to defend vigilantism *qua* vigilantism, i.e. to defend simply the essential features of an action that make it count as an instance of vigilantism, because the generality of the topic prevents the affirmative from presenting any sort of specific plan of action for exactly how vigilantism ought to be carried out and because being compelled to defend every way of being a vigilante would let the negative paint affirmative into precisely the beating-Michael-Phelps sorts of corners from which it's nearly impossible to win. To prove that vigilantism is justified, then, means proving that the initial decision to take the law into one's own hands is justified, without any obligation to defend any subsequent decisions vigilantes might make about how to do that. What that ends up doing, in effect, is letting you defend a best-case scenario, where vigilantes choose relatively effective methods of preventing, deterring and/or punishing criminals without doling out patently excessive punishments or unnecessarily endangering innocent bystanders. The negative can still make arguments about "implementation problems," but only by showing that those problems inherent to vigilantism as such, at least under normal circumstances, and are not brought about by some particular moral or intellectual failure on the part of the vigilantes.

That deals with the problems the affirmative faces stemming from the generality of "vigilantism," but there's a similar problem stemming from the generality of "the law". This may or may not be necessary, depending on how many negatives try to make the fairly silly arguments it excludes, but it probably won't hurt to include a line in AC frameworks to the effect that reasonable debate requires the assumption that the laws in question are reasonably significant and serious, and not on the order of de-tagging mattresses or doing 5-over on the freeway, which I hope we can all agree do not justify vigilante justice. You can also argue, textually, that "failed" implies "tried," meaning that laws that the government makes no attempt to enforce on any level fall outside the scope of the topic. (The other problem with "the law" is that the laws not getting enforced may be bad laws, as is very arguably the

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case with the immigration laws receiving some vigilante enforcement from border militia groups in Texas, but I don't see a reasonable way to framework out of those arguments—you have to either defend the laws in question or just weigh impacts. If it gets to the point of defending German citizens bounty-hunting fugitive Jews or something like that, then you can argue some sort of “on balance” interpretation of resolutional burdens, or do the non-theoretical equivalent and just give some very persuasive probability weighing.)

The alternative to dealing with these framework issues is to simply give relatively generic justifications for specification/conditionality/parametrics/hypo-testing/plans (pick your favorite terminology) and then defending some particular instance of vigilantism. I'm guessing this approach will be reasonably popular on this topic, and I'll discuss it briefly at the end of this section. But first let's look at some potential case positions that affirm more generally:

A. Social contract theory affirmatives

Contract based positions will probably be very common, whether debaters use the phrase “social contract” or not. The argument here, in its simplest form, is that our *prima facie* duty not to break the law stems from the government's reciprocal promise to uphold and enforce the law—we give up the right to defend ourselves from aggressors by any and all means necessary because the state has promised to do it for us better and more justly. If that doesn't happen, we're absolved of our responsibility to play by the rules that aren't being enforced on others.

This argument has to overcome a sort of threshold problem: given that in any large, populous modern polity some violations of law, even serious ones, will inevitably go unpunished, it's unreasonable to say that the failure of the government to enforce every law on every offender in every instance of its violation simply voids all the duties citizens are bound to as responsible members of a political society. The best way to deal with this problem, I think, is to say that our contractual obligations are not all-or-nothing either as individuals or as a society—the government's failure to enforce a particular law in a particular case releases me from my duty to follow the law only to the extent that crime that went

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unpunished (a) is reasonably serious, which you can give yourself the right to assume at a framework level; (b) has some particular relevance to me (i.e. is an attack on me, my family, friends, neighbors, et cetera) and thus represents a breach of the state's contractual duties to me personally, which has no effect on the justice of vigilantism as such but simply limits who's justified in becoming a vigilante in a given circumstance; and (c) is directly addressed by my act of law-breaking—i.e., I'm released from my obligations only insofar as is necessary to rectify the government's failure to uphold its own.

B. Indirect self-defense

This is an argument I particularly like. It's pretty well accepted and easy enough to argue that people have an absolute right to defend themselves (and probably others, at least those closely associated with them) from aggression. There are various constraints on this right, most importantly proportionality constraints which are strongest as regards harm done to third parties (I can't kill John to stop him from poking me, and though I can kill him to stop him from killing me, I probably can't kill anyone else for that same purpose, though just poking them would be okay) and necessity constraints (I can't kill John in self-defense if I could just as reliably non-fatally incapacitate him). But it's hard to argue that an action which is necessary to keep me or the people I care about from harm, doesn't harm the would-be attacker more than they intended to harm their prospective victims, and doesn't significantly harm anyone else can be unjustified regardless of its legality. If, then, vigilantism is the only means by which an individual or group can protect itself from the threat of unchecked criminal violence, it intuitively has the right to do so.

A weakness of this argument is that the fact that the government has failed to enforce the law doesn't *necessarily*, absent any context, imply a heightened risk of people being subjected to future criminal violence (even on the somewhat generous assumption that we can exclude all victimless crimes right off the bat). Without knowing why the government failed to enforce the law or how it's responded to its failure, we can't know whether criminals will be any less deterred from committing future crimes than they would have been had the law been enforced perfectly from the beginning. You could get into an interesting debate here over the semantics of the perfective aspect, and whether "has failed" implies

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completion of the failure or that the failure is ongoing or neither, but it's probably easier just to say that you get to assume that the failure was at least significant enough that people, e.g. criminals, will notice it, and that all other things being equal past failure provides predictive evidence of future failure. The significance of the failure is important, because this argument requires you to make a distinction between the normal risk of being victimized by crime, which we accept without resorting to vigilantism, that obtains even when the government is operating perfectly and the allegedly heightened risk to life and limb that comes to obtain when the government does not reliably enforce the law.

C. Duty-to-punish

I don't have any especially trenchant insights to offer about this position other than to say that it's out there and I think it could be pretty strategic if well-written and properly executed. The argument is simple retribution, probably of a full-blown, Kantian variety: Criminals deserve to be punished, ought to be punished, and it is in general morally obligatory that they be punished. If the expression of their agency which dictates that they be punished is not respected, they have been done a serious injustice. Thus, it's the duty of every right-minded citizen who's read the Critique of Practical Reason carefully to get off his or her duff and administer the called-for punishment. Finding someone who actually says it might be a challenge, but it seems to be pretty directly implied by just about any interpretation of Kantian theory of punishment.

D. Straight-up util

There are a million ways to construct and run this position, and which one you choose will be in large part a function of what the best evidence you can find says, but the basic story is simple: vigilantism is a means of protecting social order, deterring future crimes, identifying, stigmatizing and incapacitating criminals, and putting pressure on the government to get its act together and deal with problems.

There are two big difficulties facing these affirmatives: The first is that you'll probably be stuck supporting debatable, non-obvious causal link stories with nothing but analytics, and in many cases probably uncarded analytics (not that that should really matter, but it does). If you can find a reputable,

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methodologically defensible study that says vigilantism deters crime (or doesn't), my hat is off to you. But I think the empirical evidence of any real effect from vigilantism on crime rates or government policy or anything else from which you can cull advantages is going to be pretty thin on the ground. The best way to deal with this is to simply acknowledge it and say that, provided you win the standards debate, someone has to generate offense to your standard somehow, and if ludicrously speculative analytics are the only way to make that happen given the lack of empirical literature, then ludicrously speculative impacts are what the judge is going to have to vote on.

Finally, a word about specified advocacies: There are plenty of them out there, and I won't try to review all of them. Broadly speaking, there are two ways to go about finding a specified affirmative to write: One is to go out and do some reading, find some vigilantes you can jive with, and write a case about them. The other is to find some ongoing failure of law enforcement somewhere in the world and propose a plan of action for forming a vigilante group to deal with it. The second route has the advantage of versatility, but if you can find an existing vigilante group to defend, and authors who defend it, your solvency claims will probably gain a ton of credibility.

Probably the easiest specified affirmative to write, somewhat oddly, and one that you'll inevitably come across in the literature doing resource and I'm guessing come across in rounds, defends the group called the Sea Shepherds, a group of conservationist pirates who roam the high seas trying to annoy and/or sink illegal Japanese (and other, but mostly Japanese) whaling ships. National Geographic or the Discovery Channel or something like that did a documentary on these people, and they're on the whole pretty fun. They also make for a good, strategic advocacy to take on, because in years of operation they've done some noticeable damage to the whaling industry, sinking or seriously damaging several ships, but have yet to cause physical harm to a single human being. In addition, you can go a number of different directions in claiming advantages to what the Sea Shepherds do, either inside some sort of animal rights framework (it's not all that hard to argue that whales ought to figure into utilitarian calculi, and not that much harder to argue that they have most or all of the basic "rights," in a stronger, deontological sense, that humans do) or through more standard policy advantages (I'm sure someone says whales are a

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keystone species). Go read the Wiki article and follow the links to do some extra reading, because even if you don't want to write this case, you'll very likely have to answer it, and if you do and you're not prepared don't say I didn't warn you. The best answer I've seen to Sea Shepherds so far is whale-Malthus-becomes-plankton-Malthus (i.e. whale populations boom, then crash suddenly into extinction when their food supplies near exhaustion, then those food supplies bloom, suck up all the oxygen in the ocean, and die, feeding warming, or something like that)—anyone who can execute that strategy, with even remotely decent evidence, in front of me as a response to Sea Shepherds gets a 30, win or lose.

III. Negating

I have somewhat less to say about negating than affirming, since I think it's slightly more straightforward on this topic. It's hard for the affirmative to do anything that will really define you out of the round, and given the simplicity of the link stories for most negative positions and the easy of generating offense to most affirmative standards structures I would imagine that on this topic even more than others most negative debaters will (and should) favor short NC's with narrow standards that exclude as much offense as possible, particularly AC offense

There are lots of ways to negate this resolution, but here are three ideas to get you started:

A. Social contract theory negatives

If social contract affirmatives will be essentially Lockean, social contract negatives will be essentially Hobbesian: So long as a government is a government (i.e. so long as it maintains things like sovereignty, territorial integrity, and at least enough of a monopoly on force that it can't be openly challenged by any group within its own borders) it's better than no government at all because it's the guarantor of the minimal level of order which beats the heck out of a war of all against all. That's what we recognize when we sign on to be part of a political order, and even if we no longer go so far as to invest a single sovereign with absolute and irrevocable authority, we still don't want to do anything that would risk a descent into anarchy.

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The easiest response to this line of reasoning is to point out that, if the initial breach of the law on the part of the unpunished criminal didn't threaten the existence of the state, then there's no reason why the vigilante's breach of the law should do so either, especially when done in defense of the overall legal order. If the initial crime in fact did threaten the state of course, which Hobbes might say it did, then intuitively anything that deters others from taking the same route would be net beneficial—if one crime deters five, the net risk of anarchy goes down. The problem with Hobbesian social contract theory, from a strategic point of view, is that it's unabashedly consequentialist in a way that Lockean theory isn't, and even if it prioritizes the relatively narrow end of socio-political stability above everything else, it's relatively easy to generate semi-plausible link stories that terminate in some impact to stability—lots of things threaten the existence of the legal and political order about as much as or more than vigilantism.

If you really can't live without a social contract NC, you could try hammering out some grotesque love-child of Locke and Hobbes and arguing that people have a right of self-defense which they absolutely surrender to the discretion of the state when they join political society, and which they must use only as the state allows for no other reason than that they agreed not to. Then you have to explain why it's okay for the state not to uphold its obligations while still binding you to yours, maybe by arguing that, at least in democratic societies, the government's failure represents our collective failure and it's our responsibility within the terms of the social contract to work through the system to correct that failure rather than to simply ditch the system because we're having trouble making it work like it's supposed to. On the whole, though, I'd recommend staying away from contract NC's, or at least writing one but not relying on it too heavily.

B. Prosecutorial discretion

I like this argument—we used a variation of it fairly successfully on the felons topic a few months back. The basic claim is that any modern legal system is built on the assumption, stated or implied, that the law will be enforced selectively. There are too many laws, and too many people break them too many times, to even attempt to enforce them all on everyone all the time. Further, prosecutors need the ability to pick and choose when to press charges so that they can take account of circumstantial considerations

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not written into the text of statutes, show leniency to penitent first-time offenders, and so on. And finally, some laws, especially local ones, are obviously bad and not worth enforcing but also not worth the trouble of formally repealing, or at any rate have not been formally repealed yet—Florida just this past election cycle failed to pass a ballot initiative to repeal a constitutional provision that, as I understand it, very straightforwardly bars Asians from owning land in the state, which I’m sure was a wonderful idea when it was passed but has probably outlived its usefulness.

If your opponent is smart, they’ll go for the failing-requires-trying argument I discussed above—if the government/its agents make a conscious decision to let a particular law go unenforced either some or all of the time, that’s wonderful but non-topical. You can argue a counter-interpretation—I seem to recall seeing a t-shirt once that said something like, “If you don’t try, you fail 100% of the time,” which would be a good, inspirational way to word it—which might or might not work, since I can’t off the top of my head see any real reason to prefer either interpretation given the only obvious difference it makes is including or excluding this particular NC. Or you can just hope that that response doesn’t occur to them. That interpretational difficulty aside, I think this is a pretty decent way to negate.

C. Precedent-setting and destabilization

These are the arguments that directly answer util affirmatives (meaning that if you’re debating one, you should save this case to read as turns to the AC and read another case with an exclusionary, preferably means-based standards structure if at all possible). Your argument is that vigilantism will inevitably cause one or more of several things to happen: (1) Vigilante groups clash with the government as it tries to punish the vigilantes for breaking the law and they resist, resulting in open and organized violence on a vastly larger scale than that of the original crime, perhaps resulting in civil war and/or the collapse of the state; (2) Vigilante groups grow increasingly powerful and begin to abuse their authority—even if begun with the best intentions, it’s not hard to imagine that they, or their eventual membership, might become inclined to take advantage of their power for purposes other than crime prevention (cf. the *Simpsons* episode “Homer the Vigilante,” which is really well worth watching for anyone who’ll be debating this topic); (3) In a best-case scenario, benevolent and well-run vigilante groups take over more

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and more of the functions of state law-enforcement agencies, which simply atrophy further and further until the government effectively loses control of its own territory. In any of these scenarios, Bad Things are bound to happen, up to and including war and mass murder.

The downside of these positions is similar to that of consequential affirmatives, namely the lack of empirical evidence. But the situation is somewhat better for the negative given that there have been plenty of instances, for instance in various African failed states, of militias that arguably originated at least in part as vigilante groups ending up abusing their power, sparking civil wars, and doing all the things you're going to want to accuse vigilantes of bringing on when you're negating. On the whole, if you can find evidence that describes one or more of these militias as vigilantes and talks about the various bad things they've done, this is a pretty good argument to be making.

Anyhow, those are my thoughts. Now go, read some articles, cut some cards, write some cases and blocks, and have fun debating Batman!

DEFINITIONS OF VIGILANTISM:

TWO DIFFERENT DEFINITIONS OF VIGILANTISM

Veronica J. Joice, "A Restraining Order and a Handgun: North Carolina's Attempt to <"Empower" Victims of Domestic Violence" 50 Howard Law Journal, Fall 2006.

As the gun-ownership and murder rates rose following the Civil War, vigilante activity increased, especially in the South and among organizations like the Ku Klux Klan ("Klan" or "KKK"). n27 The definition of vigilante can vary - some have defined vigilantes as "organized, extralegal movements, the members of which take the law into their own hands" and who "break[] one law to uphold what [they] considered to be a higher one," n28 while others contend that a vigilante can be "an individual who is seen as a defender of justice against the law," apprehending criminals and issuing punishment where the justice system fails. n29 Battered women who kill their abusers are, arguably, this second type of vigilante. n30 Yet, although some would argue that "vigilantism is generally viewed as consistent with social values in the United States," n31 the term vigilante usually has negative connotations.>

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TWO DIFFERENT TYPES OF VIGILANTES.

O'Connor, T. "Vigilantism, Vigilante Justice, and Self-Help." APSU.

<http://www.apsu.edu/oconnort/3410/3410lect04a.htm>

<There are two main types of vigilantes: the lone wolf; and the instigator. The lone wolf is commonly portrayed in the media, but the more common and classical type is the instigator. A lone wolf is likely to be disorganized, and easily caught or killed. Sometimes, a lone wolf is seeking martyrdom or "suicide by cop." However, the vast majority of lone wolves abandon their plans and channel their energies into some other type of self-protection, such as arming themselves with guns or taking up some activist cause. On the other hand, an instigator is the kind of person who is not only well-organized themselves in their preparations, but they involve others (a significant other, a small group, or sometimes a mob) in their plans. This is the classic vigilante profile -- one who instigates a posse, gang, crew, or mob into action. Vigilantism as a group activity is much more common than vigilantism as a solitary activity. >

VIGILANTES ALWAYS BELIEVE THE LAW HAS FAILED:

THE LAW OF SURVIVAL IS WEDDED TO VIGILANTE IDEOLOGY –
VIGILANTES ALWAYS BELIEVE THAT THEIR ACTIONS ARE SIMPLY
BECAUSE OF THE FAILURE OF THE LAW TO RIGHT A WRONG

William E. Burrows, *Vigilante!*, New York: Harcourt Brace Jovanovich, 1976, pp 13

<The mark of the vigilante organization, then, is the reluctant citizens' defense of the law of survival as they interpret it in a given situation. It is important to note, though, that the law of survival is nearly always wedded to written law in vigilante ideology. In other words, the men who form a vigilance committee do so, they tell one another, only because robbers and murderers are breaking the law- the municipal, territorial, or state statutes, which were written to protect them but not which they think aren't being enforced by authorities. At the bottom of their thought process, however, is the fear that if they don't get so-and-so, so-and-so is going to get them. And, as the vigilante story unfolds, we will see that it is not necessarily a fear of being killed; it can be economic fear (this was usually the case), political fear, racial fear, or even the fear that immoral people are corrupting the community and must be stopped. Whatever the excuse, the vigilante always sets out to preserve, not destroy. >

LAW MUST EXIST FOR VIGILANTISM TO EXIST:

VIGILANTISM REQUIRES THAT AN ORDER OF FORMALIZED RULES EXISTS – ONE CANNOT SPEAK OF VIGILANTISM WITHOUT AN UNDERSTANDING OF THE “ESTABLISHMENT” THAT PRODUCES IT
Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 29

<Establishment violence can occur in any society where groups desirous of maintaining their value positions see their capabilities decreasing, primarily due to the apparent ineffectiveness of the government. As an analytical concept, it assumes that there is a recognized sociopolitical order with formalized rules and methods of maintaining its boundaries over time. According to this model one cannot speak of vigilantism where there is no recognized “establishment,” where conditions of internal war exist, or where there are no rules governing the application of coercion. Even with these conceptual preconditions, the study of the causes, variety, and consequences of vigilantism can richly complement the existing work on dissident violence.>

VIGILANTISM REINFORCES A DESCRIPTIVE INTERPRETATION OF REALITY:

VIGILANTES ARE DEPENDANT UPON THE CURRENT IDEOLOGICAL ORDER, AS A RESULT – THEY ARE ONLY CAPABLE OF SEEING WHAT IS NOT WHAT OUGHT TO BE.

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 26-27

<Vigilante groups, unlike many revolutionary movements, rarely possess autonomous ideologies; they are dependent for ideological guidance and justification on the prevalent belief system of the establishment they seek to support. It might be argued that vigilantes usually do not have ideologies at all, but only poorly integrated values and attitudes that are not very comprehensive. Apparently vigilantes do not attempt to answer most questions concerning the human condition but instead improvise makeshift justifications that serve to reassure them of the righteousness of the status quo.

The fundamental ideology of the prevailing system is not stated in detail by vigilantes, because it is assumed to be known. Vigilantes are in favor of “what is” and therefore, they have no need to develop complex explanations of “what ought to be.” In this respect vigilante attitudes are much more uncomplicated than those of revolutionaries. If it were not for their fear that their value capabilities were being eroded, vigilantes would have no problems requiring independent ideological guidance.>

VIGILANTISM – MACRO OR MICRO JUSTICE?:

WHETHER OR NOT VIGILANTISM IS JUSTIFIED DEPENDS ON IF YOU LOOK AT JUSTICE IN A MICRO- OR MACRO-PERSPECTIVE.

Cook, Alison. "Individual vs. Systemic Justice: Using Trust and Moral Outrage to Predict Reactions to Vigilante Murder." December 2006. A Dissertation presented to the Faculty of the Graduate School University of Missouri-Columbia. p. 2-3

<The case of vigilantism is a dramatic example that crystallizes the conflict jurors must resolve between punishment motives and justice orientations. These ideas prompt the following question: When is vigilantism excusable, and when is it an affront to the social order? The following study investigates the potential trade-off between micro- (case-specific outcomes) versus macro- (broader systemic outcomes) orientations toward justice when responding to a vigilante murder. A micro-orientation toward justice is one that concentrates on the fairness in a particular situation or fair treatment of a specific person (Tyler & Smith, 1997). That is, for each criminal case, the likelihood of a defendant's guilt and her or his deservingness of punishment dictate the verdict and sentence decisions. On the other hand, a macro-orientation toward justice looks at fairness from a social systemic perspective (Tyler & Smith, 1997). This is the orientation of the criminal justice system; the accused are innocent until proven guilty and given the benefit of the doubt. Furthermore, a macro-orientation toward justice is concerned with the functionality of the system itself; the criminal justice system is guided by procedures to ensure consistency and fairness.>

AFFIRMATIVE CARDS

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VIGILANTISM IS JUSTIFIED BY THE SOCIAL CONTRACT:**VIGILANTISM IS JUSTIFIED WHEN THE STATE FAILS TO PROTECT ITS CITIZENS ACCORDING TO THE SOCIAL CONTRACT****Elisabeth Ayyildiz. "WHEN BATTERED WOMAN'S SYNDROME DOES NOT GO FAR ENOUGH: THE BATTERED WOMAN AS VIGILANTE" 4 Am. U. J. Gender & Law 141**

<Vigilantism as a permissible mode of self-help for battered women may be justified under social contract theory n78 in two ways. First, the breakdown of the social compact occurs when the state fails in its obligation to protect the individual. This breakdown justifies the individual's resort to self-help. Second, women were not part of the original contract and thus may not be required to adhere to its obligations. n79 Some theorists argue that law and legal systems developed as a desirable alternative to private justice. n80 Social contractarians, in particular, argue that the individual, in giving up the norm of private vengeance, is entitled to the state's protection. n81 Thus, the "central [*152] claim of contract theory is that contract is the means to secure and enhance individual freedom." n82 Under social contract theory, if the state fails in its obligation to protect citizens, the government is considered dissolved and the people are entitled to provide for their own protection. n83 One philosopher concludes that where the state fails to protect its citizens, protecting oneself is not considered civil disobedience or vigilantism. n84 One may extrapolate this premise to conclude that vigilantism is morally justified by the state's failure to uphold its end of the compact. n85>

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THE RIGHT OF SELF-PRESERVATION AND REVOLUTION ARE INHERENT TO THE SOCIAL CONTRACT

Culbertson, William C. *Vigilantism: Political History of Private Power in America*. Westport, CT: Greenwood Press, 1990. P. 10

<The inherent rights of self-preservation and revolution were defined in the philosophy of John Locke as legitimate and shared defenses against arbitrary power. At the same time, Locke established that such actions were extralegal if outside or contrary to the political society. However, by careful phrasing, Locke gave people a right to rebel against arbitrary power from any quarter:

Where the laws cannot be executed, it is all one as if there were not Laws, and a government without laws is a . . . mystery . . . If any mischief come in such Cases, it is not to be charged upon him, who defends his own right but on him, that invades his neighbors. [For] whosoever uses force without Right, as everyone does in Society, who does it without law, puts himself into a State of War with those, against whom he so uses it, and in that state all former ties are cancelled, all other Rights cease, and everyone has a Right to defend himself, and to resist the aggressor.

As Locke justified self-preservation and the right of revolution, against a prince, the legislature, or the criminal, he also indicated that this state of war must be temporary. “The Power that every individual gave the society, when he entered into it, can never revert to the individual again, as long as the Society lasts, but will always remain in the Community; because without this there can be no Community, no Commonwealth, which is contrary to the original Agreement.”

VIGILANTISM PROMOTES COMMUNITY VALUES:**VIGILANTISM STABILIZES COMMUNITY VALUES AND SOCIAL ORDER**

Brown, Richard Maxwell. "The History of Vigilantism in America." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 95

<The socially constructive movement occurred where the vigilantes represented a genuine community consensus. In such cases a decided majority of the people either participated in the movement or approved of it. Vigilantism of this sort simply mobilized the community and overwhelmed the unruly outlaws and lower people. The community was left in a more orderly and stable condition, and the social functions of vigilantism were served. The problem of community order was solved by the consolidation of the three-level social structure and the solidification of the supporting community values.>

VIGILANTE JUSTICE IS REINFORCES COMMUNITY NORMS AND IS MORE REPRESENTATIVE OF COMMUNAL WISHES THAN DISTANT GOVERNMENT AUTHORITY

Franklin E. Zimring, The Contradictions of American Capital Punishment, Oxford: Oxford University Press, 2003, pp 109.

<For those who are within a dominant group, there is no need to worry about legal limits on the power of government, because community leaders are in charge of identifying targets and choosing sanctions. In the vigilante world view, the need for a fact-finding process may be displaced by personal knowledge and community agreement. The same citizens who might distrust punishment power in the hands of a distant governmental authority trust themselves and their neighbors. And the vigilante tradition gives positive sanction to communal violence if the cause is a just one. 109>

VIGILANTISM IN PLACES LIKE NIGERIA REFLECTS ORDINARY CITIZEN'S DISCONTENT OVER INEQUALITY AND A DESIRE FOR A "PEOPLES JUSTICE"

Smith, Daniel Jordan. A Culture of Corruption: Everyday Deception and Popular Discontent in Nigeria. 2007. Princeton University Press. p. 167-168

<But vigilantism is much more than a popular response to crime. It operates at the intersection between the state and society, and lies at the center of popular understandings of the roots of inequality, injustice, and corruption in Nigeria. Public support for vigilantism builds on notions of local sovereignty, people's ambitions and frustrations with regards to participation in Nigeria's nascent democracy, and a sense that inequitable access to resources controlled by the state undermines traditional mechanisms of reciprocity associated with long-standing systems of patron-clientism. Indeed, vigilante groups in Nigeria were for several years extremely popular among ordinary people because they represented a brand of "people's justice" in the face of the corruption associated with politics and state institutions.>

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VIGILANTISM CAN SPUR POLITICAL REFORM BASED UPON COMMUNITY VALUES – THIS CAN BE SEEN IN PLACE SUCH AS TANZANIA.

Heald, Suzette. "State, law, and vigilantism in northern Tanzania." 2006: African Affairs, 105:265-283.

<The sungusungu have come to operate in a distinctive space; co-opting government and, in turn, co-opted by it. Communities have taken back power, developed their own policing capacity and, in so doing, effectively re-invented themselves. With reformatory agendas, they have evolved new normative structures and modes of co-operation and organization which both actually and potentially have far-reaching consequences for economic and social welfare. A new vision of community responsibility is heralded and held out as an ideal. In the same way, perhaps, they have reformed and reclaimed the state, with the administration demonstrating an increasing responsiveness to the priorities of local communities and allowing them a greater degree of autonomy in the management of their own affairs.>

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SOCIAL NORMS MUST BE ENFORCEABLE, WHICH IS DONE THROUGH SOCIAL COHESION.

Culberson, William C. Vigilantism: Political History of Private Power in America. 1990: Greenwood Publishing Group. p. 103-104.

<The application of organizational thought to social relations that maintain traditional values is distinct. Society is a blueprint of formal relationships but also an informal system of practical relationships. Formal rules establish what is expected and informal rules establish what is accepted. The social product is not rebellious spirits but normative standards. Social regularities do not occur accidentally or by formal edict, but from patterned expectations in a network of prevailing practices. Patterned expectations create values acceptable for formal relationships and acceptable norms for fulfillment. To be effective, however, norms must be enforceable.

The social trick is how to enforce individual social (informal) norms and official (formal) deviations. This is where social cohesion becomes a vital ingredient of social relationships. Social cohesion occurs when a majority or more of like-minded individuals identify with, live by, and up to, the patterned expectations of a social arrangement. Social cohesion endows a group with the power to ostracize both informal deviance and official deviance. If there is insufficient social cohesion to enforce a perceived norm deviation, it must be created.>

VIGILANTISM IS EFFECTIVE:

VIGILANTE LAW ENFORCEMENTS IS EFFECTIVE - IT LIMITS COSTS, IS BETTER SUITED TO CATCH CRIMINALS, AND DECREASES THE STIGMA FOR A CRIMINAL

Kelly D. Hine, "Vigilantism Revisted: An Economic Analysis of the Law of Extra-Judicial Self-Help or Why Can't Dick Shoot Henry for Stealing Jane's Truck?" 47 American University Law Review 1221, June 1998.

<Large, bureaucratic governmental law enforcement is expensive. The costs of creating and maintaining the necessary work force and infrastructure are staggering. n120 Private enforcers, such as vigilantes, enjoy a tremendous cost advantage over public enforcers in this respect. Vigilantes are not salaried, they do not require extensive training, and they generally keep capital expenditures to a minimum. n121 As members of the community victimized by crime, vigilantes also enjoy the benefits of increased familiarity with their victimizers. n122 This familiarity should make apprehension easier, thereby lowering the cost of enforcement. n123 Furthermore, vigilante law enforcement does not subject the criminal to the continuing level of stigma associated with a public criminal record. Perhaps then, these substantial cost savings make vigilantism more cost efficient than public law enforcement.>

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VIGILANTISM MAY BE USEFUL IN LESS STRUCTURED SOCIETIES.

Rosenbaum, H. Jon and Peter C. Sederberg. "Vigilantism: An Analysis of Establishment Violence." *Comparative Politics*, Vol. 6, No. 4 (July 1974), pp. 541-570.

The presence of vigilantes may be functional in mass societies. Vigilantes are more interested in participating in the maintenance of the established order than in protecting due process. For this reason, the vigilante may be the ideal citizen in an unstructured society where there is a direct relationship between leaders and masses. As Samuel P. Huntington has noted, mass societies have a distinctive form of political participation which combines "violent and nonviolent, legal and illegal, [and] coercive and persuasive actions."⁵⁴ The vigilante might be comfortable in a society that places a high value on this form of political behavior, and could be a useful agent in helping this kind of system to endure.

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VIGILANTISM ALLOWS FOR A SATISFACTION AND EFFICACY THAT COMMON LAW MAY NOT NECESSARILY PROVIDE.

Schadt, Angela M. and Matt DeLisi. "Is Vigilantism on Your Mind? An Exploratory Study of Nuance and Contradiction in Student Death Penalty Opinion." *Criminal Justice Studies*. Vol. 20, No. 3, September 2007, p. 258

<Primal rationales for the death penalty, such as vigilantism, have appeared sporadically in criminological scholarship. Mead (1918) described the seemingly natural human proclivity for justice, often vigilante justice, and the duties and responsibilities of the state to harness this emotion into a civilized system of justice. According to Mead, 'the respect for the law is the obverse side of our hatred for the criminal transgressor.' The revulsions against crime and criminals were so intense that condemnatory forms of criminal justice such as lynch law and common vigilantism were often perceived as fitting and righteous forms of social control. Decades later, Donald Black explored the historical and philosophical use of crime and punishment as similar forms of self-helping social control. Black asserted that "There is a sense in which conduct regarded as criminal is often quite the opposite. Far from being an intentional violation of a prohibition, much crime is moralistic and involves the pursuit of justice. It is a mode of conflict management, possibly a form of punishment, even capital punishment. Viewed in relation to law, it is self-help." In this sense, vigilante justice carries with it a sense of satisfaction and efficacy that is difficult to achieve under common law.>

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VIGILANTISM IS GROUNDED IN A BELIEF IN JUST DESERT.

Schadt, Angela M. and Matt DeLisi. "Is Vigilantism on Your Mind? An Exploratory Study of Nuance and Contradiction in Student Death Penalty Opinion." *Criminal Justice Studies*. Vol. 20, No. 3, September 2007, p. 259

<Vigilantism and related phenomena, such as vindictiveness, punitiveness, and retribution, are characterized by an intense, morally based view of capital punishment that encompasses both their antipathy towards criminals and their desire to affirm the rights of the public. Frequently, persons who espouse this view are deeply committed to a just deserts orientation and are not amenable to other views of capital punishment. Bohm (1992) found that some death penalty proponents articulated visceral feelings of 'vindictive revenge' or 'revenge utilitarianism' as justifications for their position.>

PEOPLE ARE INCREASINGLY TURNING TO NON-STATE SOURCES FOR PROTECTION.

Wilkerson, Isabel. "'Crack House' Fire: Justice or Vigilantism?" *New York Times*. October 22, 1988.

<http://query.nytimes.com/gst/fullpage.html?res=940DE5DB113FF931A15753C1A96E948260&sec=&spon=&pagewanted=2>

There are indications that people are increasingly turning to themselves or to private agencies for protection rather than to the police. Public police forces have been losing ground to private security forces since 1970, when they were roughly equal at 400,000 members each, according to figures from the Bureau of Labor Statistics. Now, there are 1.2 million private security guards, as against 675,000 state and local police officers in this country, Dr. Moore said.

VIGILANTISM SHOULD BE JUDGED BY THE QUALITY OF THE ENDS:

VIGILANTISM IS GOOD INsofar AS IT IS TARGETED TOWARDS GOOD ENDS

Rosenbaum, H. John and Peter C. Sederberg. "Concluding Observations." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 269

<Vigilantes generally do not commit acts of violence out of complete disregard for all moral and ethical principles; rather, they act because they believe they are justified. This does not mean they necessarily develop an elaborate moral rationale, simply that they see themselves as defending something they hold to be of value. The overused cliché about ends justifying means does not, however, fully satisfy the ethical problem which must be probed more deeply.

The "ends/means" debate disguises two issues: First, some evaluation must be made of the quality of the ends pursued. We note in our introductory essay that this seems to be the fundamental question: What is the value of the order being preserved? Professor Stettner notes that neither the goals of self interest or order qua order seems particularly attractive, but it may be too harsh to say this is all vigilantes are defending. They often appear to be self-serving, but actually may be trying to protect their families and community. Nor is their preferred order just any order. Rather, it is one reflecting certain social norms and values which cannot be automatically dismissed. >

VIGILANTISM IS KEY TO PRESERVING RIGHTS:**VIGILANTISM IS KEY TO ESTABLISHING PROPERTY RIGHTS**

Brown, Richard Maxwell. "The History of Vigilantism in America." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 81

<Fundamentally, the pioneer vigilantes took the law into their own hands for the purpose of establishing order and stability in newly settled areas. In the older settled areas the prime values of person and property were dominant and secure, but the move to the frontier meant that it was necessary to start all over. Upright and ambitious frontiersmen wished to reestablish the values of a property holder's society. The presence of outlaws and marginal types, often in a context of weak and ineffectual law enforcement, created the specter and, frequently, the fact of social chaos. A vigilante roundup of ne'er-do-wells and outlaws, followed by their flogging, expulsion, or killing, not only solved the problem of disorder, but also had crucial symbolic value as well. Vigilante action was a clear warning to disorderly inhabitants that the newness of settlement would provide no opportunity to erode the established framework of civilization. Vigilantism was a violent sanctification of the deeply cherished values of life and property.

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VIGILANTISM IS THE RIGHT OF THE PEOPLE TO DEFEND THEMSELVES IN THE ABSENCE OF THE STATE

Culbertson, William C. *Vigilantism: Political History of Private Power in America*. Westport, CT: Greenwood Press, 1990. P. 11

<Another point in the philosophy of vigilantism is popular sovereignty. Vigilante action in the nineteenth century was occasioned by an increase in the ideology of popular sovereignty and previous experiences of private punishment. A maturing belief in democracy from the American Revolution to the age of Jackson and the increase in vigilante movements, during and afterwards, coincided with an acknowledgement that the rule of the people was superior. “The right of the people to take care of themselves, if the law does not is an indisputable right,” said Professor Bigger of the local normal school to the vigilantes of Johnson County, Missouri in 1867. This was encouragement from a learned man, and extending this argument meant that vigilantism was but a case of the people exercising their sovereign power in the interest of self-preservation. For if the instruments of state power do not exceed private capacities, government ceases to rule and private power becomes the last resort of maintaining the social system.>

VIGILANTISM IS POPULAR SOVEREIGNTY:**VIGILANTES VIOLATE PROCEDURAL NORMS IN DEFENSE OF THE ESTABLISHED ORDER**

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 3-4

<Illegitimate coercion directed by private persons against one another or against the regime may be defined as violence. The exercise of coercion by the regime is also generally viewed as regulated by these formal boundaries. The boundaries are, of course, flexible; and at times of severe social disruption, such as internal war, they may be nearly nonexistent. Except for the extreme case of a regime based solely on force, some rules defining procedures and limits of the exercise of coercion by the regime or groups acting in its behalf are generally recognized. When individuals or groups identifying with the established order defend that order by resorting to means that violate these formal boundaries, they can be usefully classified as vigilantes.>

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VIGILANTISM PRESERVES JUSTICE AND POPULAR SOVEREIGNTY WHEN THE GOVERNMENT FAILS

Abrahams, Ray. *Vigilant Citizens: Vigilantism and the State*. Malden, MA: Blackwell, 1998. P. 156-157

<As Bancroft's term 'popular tribunal' suggests, this position in its simplest expression emphasizes that law, society, and the state exist for 'the people', and that the people must and will fend for themselves when necessary. This idea is, of course, enshrined in the United States constitutional doctrine of 'popular sovereignty', but its attraction is much wider. In many different parts of the world, vigilantes and their sympathizers—and indeed some of their critics—argue that, if the state and other institutions worked as they were meant to, no one would look elsewhere for security of life and property. But when police and courts are non-existent, weak, or corrupt, the people will naturally fall back on their own resources. They will form posses and committees, and criminals and other public enemies will be hunted down and punished.>

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VIGILANTISM IS A POPULIST TOOL USED TO MAINTAIN POPULAR SOVERIEGNTY

Culbertson, William C. Vigilantism: Political History of Private Power in America. Westport, CT: Greenwood Press, 1990. P. 6

<This type of populism is at once a vigilant protection of the status quo and a vigilant challenge to the status quo by way of norm-oriented and value-oriented movements. Populism may extend from any maturing generalized belief of real or perceived social need necessary to maintain popular sovereignty. And since popular sovereignty is the most developed in the United States, it has most experienced the effect of a vigilant populism upon making and remaking governing political institutions. Each group's success in turn emboldens succeeding generations further to expand the scope of popular sovereignty, thus widening populism or activism. This occurs at the local, regional, and national level. Expressions of public opinion, violent and nonviolent, have been the ultimate power in nearly all nations at all times, and determinant of structural processes.>

VIGILANTISM IGNORES LAW TO CREATE LAW THAT IS BASED ON POPULAR SOVEREIGNTY

Culbertson, William C. Vigilantism: Political History of Private Power in America. Westport, CT: Greenwood Press, 1990. P. 9

<Law works against society's ability to cohere when it clashes with, and undercuts, society's unwritten laws. Unwritten laws direct social behavior, and when they are impaired by written law, society's ability to function is impaired. Written law is very good at anointing rights and assigning duties, but is incapable of ensuring responsible execution. Thus law establishes the practice, then the concept, for disobedience and prelegalism. Prelegalism ignores law to create law and remove a social impairment. Removal of social impairment justifies a populist, or pluralistic, style of government. Social impairment and imposition activate private powers of government, which always reside in the people.>

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AMERICAN SUPPORT OF VIGILANTISM STEMS FROM THE BELIEF THAT PEOPLE'S RULE SUPERCEEDES ALL OTHERS, THAT PEOPLE ARE JUSTIFIED IN ACTING IN THEIR OWN BEST INTEREST WHEN EFFECTIVE AUTHORITY FAILS

William E. Burrows, *Vigilante!*, New York: Harcourt Brace Jovanovich, 1976, pp 17.

<The concept of popular sovereignty- democracy- was the single most important political element contributing to the vigilante reaction. Obviously, no monarch would have allowed a bunch of armed subjects to ride around the countryside hanging the people they hated. If that kind of thing had caught on, the rabble might eventually have raised their sights, and then where would he have been? So one of the key reasons for vigilantism's taking hold in America was the belief that the rule of the people superseded all other rule. And from that followed the premise that they had the power to act in their own best interest in the absence of effective constituted authority.>

GOVERNMENT FAILURE MAKES VIGILANTISM NECESSARY:

WHEN THE GOVERNMENT FAILS TO ENFORCE THE LAW, IT ENCOURAGES VIGILANTISM – COMMUNITY SUPPORT IN RESPONSE TO THESE FAILURES DETERMINES THE AMOUNT OF “VIGILANTICS” THAT HAPPENS

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 8

<One might expect a regime to be less willing to impose severe sanctions on those who seem basically supportive, even though formally violating its rules, especially if the vigilantes appear to have the support of the “core” establishment groups in the community. Officials are also more likely to tolerate acts seen as relatively minor violations of the boundaries; in other words, the more extreme the violation, the more likely the official response. Moreover, if a regime is ineffective in deterring the dissidents who originally contributed to the potential for vigilantism, it may also lack the capability to deter the vigilantes. If community support is low, however, the number of people willing to engage in “vigilantics” will be correspondingly limited, and the formal institutional efforts to maintain due process will be reinforced rather than frustrated.>

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GOVERNMENT FAILURE CREATES A NEED FOR ALTERNATIVE ROUTES TO JUSTICE

Abrahams, Ray. *Vigilant Citizens: Vigilantism and the State*. Malden, MA: Blackwell, 1998. P. 159

<Yet, if it is mistaken to take vigilante claims about the failure of the formal legal process at face value, it would be equally wrong simply to dismiss it as a sham. One does not need to be a Marxist or an anarchist or a vigilante to perceive that state machinery is often flawed. Corrupt police and lawyers, and ‘nobbled’ or intimidated witnesses and jurors, are not figments of the radical imagination, and due process no doubt does make it more difficult to convict the guilty, especially if they are clever and well connected. Legal sentencing is often at loggerheads with public sentiment, as in recent anger about the perceived ‘light sentences’ in vehicle offenses causing death. Anxiety about crime levels and the apparent inability of state machinery to cope is also real enough in Tanzania, Britain, and elsewhere.>

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POLITICIZED VIOLENCE IS OFTEN THE ONLY WAY FOR INDIVIDUALS TO ENGAGE THE SYSTEM AND ASSERT A NEW LIBERATORY IDENTITY
Culbertson, William C. Vigilantism: Political History of Private Power in America. Westport, CT: Greenwood Press, 1990. P. 24

<Realization of the dynamics of a social power system allows one to consider the scope of popular movements with renewed interest; especially since the legitimation or institutionalization of social movements is always reference to the central value system. Social movements are institutionalized to the extent that methods and objectives are prescribed or preferred in terms of central values. Such institutionalization often bars some individuals from legitimate access to the ladder of achievement. When legitimate access is barred, violence may offer alternatives to achieve suppressed social opportunities. Violence and extralegal action provide opportunities for achieving self-regard and self-enhancement. In this context, revolutionary participation offers excluded individuals opportunities to affirm an identity with the polity and to symbolized commitment to a cause that breaks ties of previous life commitments, producing a regenerative quality. Violence equalizes the power system for the excluded, permitting access to hitherto denied areas of achievement.>

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VIGILANTES TARGET THE GOVERNMENT WHEN IT IS INEFFECTIVE

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 17

<For the most part, they concern the use of violence by established groups to preserve the status quo at times when the formal system of rule enforcement is viewed as ineffective or irrelevant. Essentially, the violence is directed outward against the threatening elements in society. Government ineffectiveness, however, suggests that vigilante action may be directed against the regime itself, if the established sectors find the lack of capabilities too frustrating. Regime-control vigilantism, then, is establishment violence intended to alter the regime, in order to make the “superstructure” into a more effective guardian of the “base.”>

VIGILANTISM CREATES NORMS THAT ARE THE PRECURSOR TO FUTURE LAWS

Culbertson, William C. Vigilantism: Political History of Private Power in America. Westport, CT: Greenwood Press, 1990. P. 8

<Vigilantism, like conflict and politics, is a constant social struggle to contain victimization. Vigilantism is a part of politics because it is a desire to maintain an established social and legal tradition and at the same time a desire to bring about a prelegal condition for a new order. Overall, vigilantism incorporates an element often construed as setting it apart from politics—extralegalism. Vigilantism is a breaking of the existing law to serve the future for the law; it is a disintegration of a lawless, victimizing, inequalitarian social set for its reintegration to include more or broader social values. It can be the worst of man, but in many instances it has been the best of man, acting to create or enforce dominant social values and norms so as to make them into law. Vigilantism is of politics and is not of politics: it is of politics because it demands the protection, the dispensing, and consideration of political resources for a particular social task; it is not of politics because it often circumvents, ignores, or is disobedient to existing social structures and mechanisms of politics.>

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

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VIGILANTISM IS A TEMPORARY FIX IN THE ABSENCE OF LAW ENFORCEMENT

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 20-21

<Crime rate increases appear commonly to afflict a society undergoing rapid social change which erodes previously established communal norms and relations and hinders the development of new ones. These conditions exist in rapidly changing urban areas where relationships are increasingly depersonalized; in frontier regions where the migrant population, though dispersed, is also uprooted, and the penetration of the formal system may not be very deep; or in regions disrupted by some social calamity, such as war. Other problems—corruption, inefficiency, or an overly refined system of due process—may also contribute to an increase in crime. Under these conditions, vigilantism may be a temporary substitute for the regular system of law enforcement, until the latter increases its coercive capabilities or the people internalize new system-supporting norms of behavior.>

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LAWS MUST REPRESENT THE CENTRAL VALUES OF SOCIETY

Culbertson, William C. *Vigilantism: Political History of Private Power in America*. Westport, CT: Greenwood Press, 1990. P. 24

<Institutions are created as a means of social control. Historic exercises of private power prove them vital for maintaining a nonviolent posture to defend the dominant system from violence. Legitimate violence then takes the form of a host of police powers exercising force through sanctioned institutions. Since every society is a power system, central values are necessary for its support. Central values are espoused by the ruling authorities, and the ruling authorities are those whose power is legitimated by central values. Central refers to the structural aspects of power and comprises those organizations, groups, and individuals that exercise the most power in a given system. Differentiated centers in every society create different types of power—economic, political, social, and culture. The central value system becomes of the values beliefs, and symbols espoused publicly by these centers. Primary definition of values comes from the dominant centers, while peripheral subcultures exert elements of support, criticism, or opposition upon the dominant centers.

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VIGILANTES BRING JUSTICE WHEN THE SYSTEM FAILS – BRAZILIAN DEATH SQUADS PROVE

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 10

<Crime-control vigilantism initiated by private persons can occur in any society where the government is believed to be ineffectual in protecting persons and property. One of the more prominent contemporary illustrations is that of the Esquadrao da Morte (Death Squad) in Brazil. These self-appointed interpreters of the law, thought to be mainly off-duty policemen, have executed five hundred to twelve hundred people. According to spokesmen claiming to be Esquadrao members, the death squads have been taking these actions because of the inefficiency of Brazil's established judicial institutions. The spokesmen claim that apprehended criminals are permitted to go free for long periods while awaiting trial by the authorities. Esquadrao members, additionally, feel that most criminals cannot be or are not being rehabilitated. For these reasons, the squads believe they are performing a service for the nation by executing people suspected of being habitual criminals. Evidently many Brazilians are in agreement with this appraisal. In a 1970 public opinion study, for example, 60 percent of the Sao Paulo residents polled claimed they favored the existence of the Esquadrao da Morte.>

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POLITICAL VIOLENCE IS A KEY CHECK ON SOCIAL POWER

Culbertson, William C. *Vigilantism: Political History of Private Power in America*. Westport, CT: Greenwood Press, 1990. P. 20-21

<A society of laws is a society that changes slowly, but a law-ridden society is a society that cannot adapt. The absence of law, the presence of bad law, and the desire for social progress has often meant that private, and then collective, violence flowed regularly from central processes of the United States. Seeking, seizing, holding, or realigning the levers of social power has meant continual engagement in or acquiescence to violence. The oppressed have struck in the name of justice, the privileged in the name of order, and those in between in the name of fear. The nation was born in violence, and a celebration of violence has followed in a train of causes and abuses endured or disputed.>

VIGILANTISM IS INEVITABLE WHEN THE LEGAL SYSTEM FAILS:

VIGILANTISM IS MORE LIKELY WHEN INDIVIDUALS DO NOT TRUST THE LEGAL SYSTEM TO ENACT JUSTICE.

Cook, Alison. "Individual vs. Systemic Justice: Using Trust and Moral Outrage to Predict Reactions to Vigilante Murder." December 2006. A Dissertation presented to the Faculty of the Graduate School University of Missouri-Columbia. p. 12-13

<Vigilantism provides an extreme example of how retribution motivates action without due process: an individual who does not trust the legal system to secure a just outcome takes the law into his own hands to make certain that the criminal will not go unpunished. If the crime that precipitated retaliation was heinous and induced strong feelings of moral outrage, would jurors excuse a vigilante for taking the law into his own hands? Based on the reviewed research, I predict that individuals who have high trust in the criminal justice system are more likely to consider legal procedures legitimate and sufficient, and will make judgments that protect the integrity of the system (macro-focus) at the expense of personal feelings or beliefs about deservingness in a given situation (micro-focus). If perceptions of legitimacy are high, punishment severity toward the vigilante would increase to reassert the system values of due process and procedural rights that are guaranteed to every American. However, if perceptions of legitimacy in the legal system are low, moral outrage may lead individuals to justify the murder of a person accused of a heinous crime and decrease punishment severity toward the vigilante murderer.>

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THE FAILURE OF THE STATE TO PROTECT ITS CITIZENS PERPETUATES VIGILANTISM – IT IS INEVITABLE

**Andrew E. Taslitz "Daredevil and the Death Penalty" 1 Ohio State Journal of Criminal Law
699, Spring 2004.**

Vigilante action often takes place on the frontiers of the state. But these spatial frontiers are not limited to the old West or the early South; they extend to any geographic area outside the direct or full control of the state. In modern times, certain inner city neighborhoods fit that description. The failure of the state to protect its citizens equally may lead frontiersmen and women, old or new, to trust their local values over those of the broader society, as represented by agents of the state. When those agents attempt to reassert state control—for example, by suddenly introducing especially aggressive policing—the agents may be resisted, perceived as passive or active friends of "the enemy."

VIGILANTISM IS KEY TO DEMOCRACY:

CONSTRUCTIVE VIGILANTISM IS DEMOCRATICALLY GOOD.

Culberson, William C. Vigilantism: Political History of Private Power in America. 1990: Greenwood Publishing Group. p. 112

<Throughout this essay, the duality of vigilantism has posed an intellectual dichotomy, just as it poses a practical dichotomy within society. Destructive vigilantism wants to close society and is deemed democratically bad; this essay categorizes the destructive side as domestic terrorism rather than vigilantism. Constructive vigilantism wants to open up society; if people are vigilant for things that may render harm to social interests and they take appropriate action collectively, not individually, they are categorized as vigilantes. The constructive side assumes a populist flavor, and that is deemed democratically good, to a point. This means that populism must be rooted in community needs as an inherent part of engaging in social enterprises.>

RETRIBUTIVE JUSTICE PERMITS VIGILANTISM:

BY RETRIBUTIVE PUNISHMENT THEORY, VIGILANTE JUSTICE IS ACCEPTABLE.

Binder, Guyora. "Punishment Theory: Moral or Political?" June 4, 2002. Buffalo Criminal Law Review, Vol. 5:321.p. 327

<We can make a similar point about retributivist penology by considering the question of vigilante justice. If retributive punishment rests on the obligations of individuals to punish all and only those who deserve it, then it would seem to condone some instances of lynching.

Suppose we are in a society that accepts capital punishment as an appropriate punishment for the most aggravated murders. Now, suppose a group of persons have witnessed an atrocious crime, perhaps a multiple murder. They have clearly identified the murderer and satisfied themselves that he was conscious, sane, and fully culpable for his act. They have disarmed and securely captured the killer, who now poses no further threat. Moreover, let us assume the society we live in has a welladministered impartial legal system that can be counted upon to duly condemn and execute the murderer. Thus there is no practical reason why the captors should not wait until the constituted authorities arrive, and then hand the offender over for legal proceedings.>

DOMESTIC VIOLENCE PROVES NECESSITY WHEN GOVERNMENT FAILS:

THE VIGILANTE IS PERCEIVED AS VILLAIN AS A RESULT OF THE FAILURE OF THE JUSTICE SYSTEM - BATTERED WOMEN WHO STRIKE IN SELF-DEFENSE REFLECT THIS DUAL CHARACTER

Elisabeth Ayyildiz, "When Battered Woman's Syndrome Does Not Go Far Enough: The Battered Woman as Vigilante" 4 American University Journal of Gender & Law 141, 1995.

<While vigilantism has historically been related to groups, n48 the modern vigilante is often an individual who is seen as a defender of justice against the law. n49 This individual has a dual character; she is both a law-abiding hero and a law-breaking villain. n50 The battered woman embodies this dual character. She has, often for many years, abided by the law, taking abuse without retaliation. She has often turned to the justice system for help, generally to no avail. n51 Yet when she finally strikes and defends herself, it is she who becomes the villain, the pariah disrupting home and hearth. She is the murderous monster.>

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THERE IS A DISTINCTION BETWEEN ORGANIZED AND SPONTANEOUS VIGILANTISM - BATTERED WOMEN WHO DEFEND THEMSELVES REPRESENT SPONTANEOUS VIGILANTISM AS HER ACTION IS THE RESULT OF A FAILED SYSTEM.

Elisabeth Ayyildiz, "When Battered Woman's Syndrome Does Not Go Far Enough: The Battered Woman as Vigilante" 4 American University Journal of Gender & Law 141, 1995.

<A distinction exists between organized and spontaneous vigilantism. That is, for some, organization is an essential part of vigilantism while for others, vigilantism occurs when "bystanders not only apprehend a criminal but also mete out punishment themselves." n52 A spontaneous vigilante, thus, may be the actual or potential victim herself. n53 The battered woman is by definition a victim, one who has not received justice, one who has not seen her [*148] batterer punished for the abuse he has heaped upon her. n54 Thus, by killing her batterer, the battered woman becomes a spontaneous vigilante - she apprehends a criminal that the law has failed to bring to justice and metes out the punishment he richly deserves.>

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THE LEGAL SYSTEM FAILS BATTERED WOMEN

Elisabeth Ayyildiz, "When Battered Woman's Syndrome Does Not Go Far Enough: The Battered Woman as Vigilante" 4 American University Journal of Gender & Law 141, 1995.

<For battered women, social norms have been repeatedly violated; criminal behavior violates social norms and battery is a crime. n59 Law enforcement agencies are perceived as unable to cope with this violation. n60 Forty-two percent of Americans in one poll responded that they had "not very much confidence" in the ability of police to protect them and eight percent replied that they had none at all. n61 [*149] For women who have been physically abused and summoned the police to no avail, n62 that number must be dramatically higher. n63 Similarly, the judicial system often fails the battered woman. While statistics are unavailable, anecdotal evidence indicates that the number of batterers who are ultimately held accountable for their actions and serve time in prison is minute. n64 In 1990, for example, the Illinois Task Force on Gender Bias in the Courts found that domestic violence offenders do not serve any time at all!>

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DEADLY FORCE BY BATTERED WOMEN IS JUSTIFIED FOR SEVERAL REASONS

Elisabeth Ayyildiz, "When Battered Woman's Syndrome Does Not Go Far Enough: The Battered Woman as Vigilante" 4 American University Journal of Gender & Law 141, 1995.

<Deadly force on the part of the battered woman, however, may be justified in several ways. First, death may be necessary because lesser degrees of force may be insufficient. The battered woman may not be able to confront the batterer without a [*150] deadly weapon because of disparities in size, strength or emotional control. The lower degree of force a woman typically exerts upon a man may have little or no impact on a physically stronger abuser. Indeed, a woman's lesser degree of force may only incite a vicious retaliation by the abuser. In addition to believing that a lesser degree of force will be insufficient, many women may believe that leaving is not possible. n68 Those that do attempt to leave report that their abusers follow them, continuing the harassment and violence. n69 Thus, if one accepts the premise advanced by BWS that battered women are, for a variety of reasons, unable to leave the batterer, and are often weaker than their abusers, then death may be the only means by which battered women can escape the abuse.>

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SPONTANEOUS VIGILANTISM AVOIDS THE CRITICISMS OF MOST FORMS OF VIGILANTE JUSTICE – THE CASE OF BATTERED WOMEN PROVES THIS
Elisabeth Ayyildiz, "When Battered Woman's Syndrome Does Not Go Far Enough: The Battered Woman as Vigilante" 4 American University Journal of Gender & Law 141, 1995.

<Vigilantism raises the specter of anarchy, of society run amuck. n147 As applied to the battered woman, however, vigilantism may be more palatable because concerns about control, accountability and racism are not applicable. One concern with vigilantism is the lack of control over a group's activities. n148 This concern is not applicable to a battered woman who will presumably kill only once. n149 As a one-time offender, she is not likely to form a group whose purpose is to search out and punish batterers. n150 In fact, most battered women who kill have no history of prior violent behavior and have far less extensive criminal records than other women charged with homicides.>

VIGILANTISM = SOCIAL MOVEMENTS:

THE BLACK POWER MOVEMENT AS VIGILANTE JUSTICE

Berger, Dan. "Outlaws of America: The Weather Underground and the Politics of Solidarity." AK Press: 2006. <http://www.wiretapmag.org/race/42937/>

<Black Power created a ripple effect throughout the movement by raising self-definition and self-determination as central components to radical political struggle; it explicitly connected demands for an end to racial apartheid in the South with the struggles of black people in the North and throughout the country. The more cutting edge elements of this movement also made connections between the black struggle here and struggles by other Third World people throughout the world. Black Power was an acknowledgement that racism was not a Southern problem but was fundamental to the structure of the United States. Whether they supported it or not, other black groups now had to define themselves in relation to Black Power, and white activists were challenged to think about politics in an entirely new way. ... Black Power advocates argued that the roots of the problem were to be found not in individual white racism but in systematic white supremacy -- the exclusion of black people (and other people of color) from meaningful participation in the political and social realms, accomplished through economic domination and, when necessary, brute force.

The practical implications of viewing black people as a colonized population were made clear by the violent urban riots sweeping the country, the most famous of which occurred in the Watts section of Los Angeles in 1965; it lasted for six days, involved more than 30,000 people, and caused an estimated \$200 million damage. Thirty-five people were killed and more than 4,000 were arrested. Two years later, forty-one people were killed in a Detroit riot. The Black ghettos of the United States were rising up, seemingly in concert with those violent rebellions in Africa, Asia, and Latin America. In cities large and small, the riots found people fighting police and the National Guard, the armed enforcers of a racist state.>

VIGILANTISM RESISTS PATRIARCHY:

IN PATRIARCHAL SOCIETIES, VIGILANTISM CAN BE A FEMINIST REACTION TO OPPRESSION AND VIOLENCE.

Biswas, Soutik. "India's 'pink' vigilante women." November 26, 2007. BBC News. http://news.bbc.co.uk/2/hi/south_asia/7068875.stm

<The several hundred vigilante women of India's northern Uttar Pradesh state's Banda area proudly call themselves the "gulabi gang" (pink gang), striking fear in the hearts of wrongdoers and earning the grudging respect of officials.

The pink women of Banda shun political parties and NGOs because, in the words of their feisty leader, Sampat Pal Devi, "they are always looking for kickbacks when they offer to fund us".

Two years after they gave themselves a name and an attire, the women in pink have thrashed men who have abandoned or beaten their wives and unearthed corruption in the distribution of grain to the poor. They have also stormed a police station and attacked a policeman after they took in an untouchable man and refused to register a case.

"Nobody comes to our help in these parts. The officials and the police are corrupt and anti-poor. So sometimes we have to take the law in our hands. At other times, we prefer to shame the wrongdoers," says Sampat Pal Devi, between teaching a "gang" member on how to use a lathi (traditional Indian stick) in self defence. Banda is at the heart of the blighted region that is Bundelkhand, one of the poorest parts of one of India's most populous states. It is among the poorest 200 districts in India which were first targeted for the federal government's massive jobs-for-work programme. Over 20% of its 1.6 million people living in 600 villages are lower castes or untouchables.

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Drought has parched its already arid, single-crop lands.

To make matters worse, women bear the brunt of poverty and discrimination in Banda's highly caste-ridden, feudalistic and male dominated society. Dowry demands and domestic and sexual violence are common. Locals say it is not surprising that a women's vigilante group has sprung up in this landscape of poverty, discrimination and chauvinism.

Sampat Pal Devi is a wiry woman, wife of an ice cream vendor, mother of five children, and a former government health worker who set up and leads the "pink gang".

"Mind you," she says, "we are not a gang in the usual sense of the term. We are a gang for justice.">

INTERNET VIGILANTISM GOOD:

ONLINE VIGILANTISM IS JUSTIFIED BECAUSE IT RAISES COMMUNITY AWARENESS.

George, Stephen. "Anything to catch a predator," February 26, 2008, LEO Weekly, <http://www.leoweekly.com/news-features/major-stories/features/anything-catch-a-predator>

Conway praised his predecessor for instigating the Perverted Justice stings. He said in an interview he's "with the parents on this issue," that he supports any group looking to raise the public profile of online predators. His attitude, shared by Perverted Justice and many others, is essentially that child predation is so repugnant, so pervasive, so damaging, that an "any means necessary" approach may be called for. "Look, Perverted Justice, MSNBC, Chris Hansen, they have raised the awareness of this issue," Conway said. "If nothing else, parents are far more aware of the dangers lurking out there for their kids that are unsupervised on the Internet, on these social networking sites, and they're aware that sex offenders tend to cluster and that they are using the Internet. I actually commend them for raising the awareness.

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VIGILANTE LAW ENFORCEMENT MAY BE MORE EFFECTIVE ON THE INTERNET.

O'Neill, Michael. Panel discussion: "Law Enforcement in Cyberspace: Who Has the Upper Hand – the Hackers or the Cops?", March 16, 2001. Federal Society. <http://www.techlawjournal.com/security/20010316.asp>

<Well, I would like to look at a slightly different concept. The government currently has a monopoly upon criminal law enforcement. As a consequence, most criminal law enforcement strategies require some sort of government participation, whether it is in terms of prosecutorial efforts, licensing schemes, or fine collection. However, given the amount of Internet traffic, and the unrelenting pace at which these technological innovations occur, suggest that it is going to be extremely difficult for law enforcement alone ever to effectively control, or enforce, criminal laws on the net. If the ultimate goal is to raise the costs of cybercrime, and still, being careful of the fact that we don't want to increase governmental intervention to the point that it itself throws off certain substantial negative costs of its own, such as decreasing privacy, for example, we might want to look to victim centered, third party, and private vigilante strategies, for enforcing criminal law on the net. Reliance on the private means of deterrence may provide a reasonable alternative to government fostered strategies.>

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GOVERNMENTAL LAW ENFORCEMENT IS INEFFECTIVE ONLINE.

O'Neill, Michael. Panel discussion: "Law Enforcement in Cyberspace: Who Has the Upper Hand – the Hackers or the Cops?", March 16, 2001. Federal Society.

<http://www.techlawjournal.com/security/20010316.asp>

<First of all, the government is unable as a practical matter to police the Internet in quite the same way it is able to police the regular city streets. The Internet is simply too large. It is simply too fast moving. There are simply too many people on line at any given time for the government, I think, without compromising privacy interests rather significantly, really to be an effective force.

Second, the nature of cybercrime, as Orin pointed out, makes it very difficult to trace. Coupled with the inevitable lag before the government can actually intervene to investigate a crime, it gives cybercrooks an enormous time advantage in being able to cloak their activities.

Third, jurisdictional problems may make it difficult even to bring a criminal case. Even if the cybercrook is identified, she may be someone who is beyond the reach of the United States laws, or beyond the jurisdiction of our criminal courts. In fact, as was discovered with respect to the I Love You worm, not only are some activities not illegal in foreign countries, but some other countries may not even have the means to ferret out the crime itself.

Unlike the streets, where the government doubtless maintains the most sophisticated weaponry, it also may not have the biggest guns in terms of technical prowess on the Internet. I think it is doubtful, and I could be wrong about this, but I tend to think it is doubtful that the government computer specialists are technologically as adept as those in private industry. Indeed, I think much of the technical prowess, either to stave off an attack, or to trace past attacks, resides only in the hands of private concerns. As a result, I think, the most efficient form of deterrence may come in terms of self help.

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Just as settlers in the old west couldn't necessarily always rely upon the local sheriff to provide good crime control, it may be in fact the case that Internet users may have to rely upon private parties, and third party concerns, for preventing crime, and enforcing certain criminal norms.>

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VIGILANTISM WOULD WORK TO CONTROL INTERNET CRIME.

O'Neill, Michael. Panel discussion: "Law Enforcement in Cyberspace: Who Has the Upper Hand – the Hackers or the Cops?", March 16, 2001. Federal Society.

<http://www.techlawjournal.com/security/20010316.asp>

<Now, I hear some laughter out in the crowds over this. And it is interesting that you sort of have that response, because it is the common response with respect to vigilanteism, and the way it worked in the old west. That is the myth we have of the old west, created by, whether it is Clint Eastwood, or John Wayne. But, in fact, fairly recent historical research looking at the way that private justice actually was carried out in the old west demonstrates the fact that, more often than not, it was actually an effective means of crime control, and of bringing down crime in individual communities plagued by bandits, where the government law enforcement functions had simply broken down.

Well, in similar fashion, I think that you can look at the Internet as an old west sort of scenario -- as our frontier. And in fact, it may be the case, that private vigilante efforts, by for example, computer companies, software vendors, Internet servers, who are often the subject of attacks, may in fact be in the best situation, both to fend off attacks, and also to retaliate in kind. I am not necessarily suggesting that they need to send viruses off to other script kiddies and hackers that are attacking them. But, I am suggesting that one of the benefits of the Internet, from the cybercrooks' perspective is the fact that grants them a certain degree of anonymity. They think that they can get away with it, whether that is true or not. Often times they can, apparently.

Well, if private concerns are able to group together to respond fairly swiftly to hacking attacks, or to script kiddies, or other infections of their systems and servers, by providing warning to folks who are attempting to do it, that may in fact serve, at least to deter, at least those individuals.>

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VIGILANTE INTERNET SCAM-BAITING WORKS.

Tuovinen, L. and J. Roning. "Baits and beatings: vigilante justice in virtual communities." 2007: Intelligent Systems Group, Department of Electrical and Information Engineering, University of Oulu, Finland.

<Scam baiting has arisen as a countermeasure to email scams, especially variations of the so-called 419 scam. A 419 scammer poses as someone having access to a vast sum of money that for some reason needs to be transferred abroad via a trusted bank account. The victim is promised a cut of the funds in exchange for cooperation. The scam then proceeds so that there turns out to be some relatively small expense - a bribe or an administrative charge, for instance - that the scammer is unable to cover and therefore asks the victim for help. If the victim falls for this, the scammer makes up another excuse, trying to maximise his profit. This goes on until the victim is no longer willing or able to pay. The alleged millions of dollars do not exist, of course, and the victim never hears from the scammer again.

Scam baiting makes use of the fact that anonymity on the Internet works both ways: it is easy for the scammer to assume a false identity, but it is just as easy for the intended victim to do the same. Upon receiving a scam email a baiter will reply to it, pretending to be interested in the scammer's proposal. When the scammer asks for money, the baiter will try to stall the transaction and possibly challenge the scammer with requests of his own. One common practice - a de-facto standard of scam baiting, one might say - is to try to persuade the scammer to send a photograph of him, often in an unusual posture, which is then published on the Web.>

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SCAM BAITING CAN BE EFFECTIVE IN STOPPING INTERNET SCAMS.

Tuovinen, L. and J. Roning. "Baits and beatings: vigilante justice in virtual communities." 2007: Intelligent Systems Group, Department of Electrical and Information Engineering, University of Oulu, Finland.

<At this point we can conclude that while scam baiting can be ethically questionable - baiting for money, which some claim to have done with success (Damon, 2004), is in fact illegal - it can also be a valuable instrument in fighting 419 scams. Besides the indirect effect of promoting scam awareness there is the direct effect of keeping scammers occupied with confrontations they cannot win, thus making them waste time and resources that might otherwise have been spent on a genuine potential victim. In addition, the ethics document at 419 Eater ('The Cheshire Cat', 2005) presents anecdotal evidence suggesting that trophy hunting is acting as a deterrent that causes some scammers to drop their efforts when the intended victim requests a photograph; this seems plausible, though does not alone suffice to answer the questions raised in the previous paragraph.>

THE GREATER THE CRIME THE MORE JUSTIFIED VIGILANTISM BECOMES:**VIGILANTISM IS MORE JUSTIFIED WHEN IT IS IN RESPONSE TO A CRIME SEEN AS A GREATER MORAL OUTRAGE**

Cook, Alison. "Individual vs. Systemic Justice: Using Trust and Moral Outrage to Predict Reactions to Vigilante Murder." December 2006. A Dissertation presented to the Faculty of the Graduate School University of Missouri-Columbia. p. 42

<Vigilantism appears to be more justified when it is prompted by a crime that evokes greater moral outrage. Interestingly, when trust was lower, the reactions between low and high RWA differed very little; however, as trust increased justice reasoning diverged as illustrated by the evaluations of the vigilante. The increased negative reactions exhibited by low RWA as trust increased suggest a mitigating influence of trust on the consideration of outcome in favor of procedures in justice decision-making. The decrease in negative attitudes toward the vigilante as trust increased points to aspects of RWA that are rarely exhibited in a legal context. Right-wing authoritarianism is associated with aggression, usually toward an authority-sanctioned target. However, the associated self-righteousness and fear of society teetering on the brink of self-destruction also increases aggression toward others who are perceived as morally corrupt and/or deviant (Altemeyer, 1998). Therefore, greater moral outrage appeared to trump duty to comply with the law in favor of sanctioning vigilantism. Alternatively, high RWA individuals may be more likely to use their own values as the authority on right versus wrong outcomes. When outrage is high and is accompanied by high trust, high RWA may increase adherence to righting a moral wrong in order to save social values themselves.>

NEG CARDS

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

VIGILANTE JUSTICE PRODUCES MORE VIOLENCE:**VIOLENCE IS THE BASIS OF SUCCESSFUL VIGILANTE JUSTICE****William E. Burrows, *Vigilante!*, New York: Harcourt Brace Jovanovich, 1976, pp xiii-xiv,**

<Violence was and continues to be the ultimate recourse that has given vigilantes their social bite and made them a force to be reckoned with. Without violence in some form, actual or potential, vigilante action would mean next to nothing, because it would be incapable of intimidation and, therefore, of “regulation.” Those who have been threatened by vigilance, who have wandered under its shadow, have always taken it seriously, because they have understood, sometimes through the firsthand example, that it amounted to certain deadly punishment.>

THERE ARE MANY VIOLENT AND DESTABILIZING CONSEQUENCES OF VIGILANTISM**Rosenbaum, H. Jon and Peter C. Sederberg. “Vigilantism: An Analysis of Establishment Violence.” *Comparative Politics*, Vol. 6, No. 4 (July 1974), pp. 541-570.**

<The potential costs of crime control vigilantism are obvious: establishment violence can rapidly become worse than the crime itself. Punishments tend to be disproportionate; the innocent have little protection; and quasi-criminal elements are attracted to the movement as a semilegitimate avenue for the expression of their antisocial tendencies. In addition, when law enforcement officials participate in the acts of violence, whatever moral validity the formal system of laws retained may be undermined.>

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VIGILANTISM ATTRACTS THOSE WITH VIOLENT AND CRIMINAL TENDENCIES PROMOTING THE WORST FORMS OF PUNISHMENT

Brown, Richard Maxwell. "The History of Vigilantism in America." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 97

At other times vigilante extremism drew into opposition decent men who otherwise probably would not have opposed them. Even the best vigilante movements usually attracted a fringe of sadists and naturally violent types. Often, such men had criminal tendencies and were glad to use the vigilante movement as an excuse to give free reign to their unsavory passions. It was always a problem for vigilante leaders to keep these elements under control, and sometimes a movement was dominated or seriously skewed by these social misfits. Sadistic punishment and torture, arbitrary and unnecessary killings, and mob tyranny marked vigilante movements that had truly gone bad. When this happened many sound and conservative men felt they must oppose the vigilantes, although they probably felt no quarrel with the initial objectives of the movement.

VIGILANTISM OCCURS IN RESPONSE TO CHANGES IN GOVERNMENTAL PRIORITIES LEADING TO DISSIDENT VIOLENCE

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 9

As with any framework, the distinctions drawn tend to deteriorate when applied to the actual social world. In this case, the major problem lies with the concept of the establishment groups' perception of declining governmental effectiveness. This could result from actual decay or simply because the formal institutions are no longer representing previously established value positions; that is, the problem is one of a formally sanctioned redistribution of values, not of ineffectiveness. This can occur particularly when a subsystem establishment that differs substantially from that of the larger system of which it is a part. Under these circumstances, vigilantism begins to shade into forms of dissident violence.

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

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VIGILANTISM CAN EASILY LAPSE INTO REACTIONARY VIOLENCE

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 12

<Establishment violence directed against groups that are competing for, or advocating a redistribution of, values within the system can be considered social-group control vigilantism. This is based on the recognition that not all violence perceived as supportive of the status quo is exercised against "normal" criminal activity. Rather, illegal coercion is exercised against those who feel threatened by upwardly mobile segments of society or by those who appear to advocate significant change in the distribution of values. Group-control vigilantism can easily lapse into a form of reactionary violence as the formal political system becomes supportive of a new distribution of values.

VIGILANTISM IS UNCHECKED SELF-INTEREST AND POLITICAL VIOLENCE

Stettner, Edward. "Vigilantism and Political Theory." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 69

<The vigilante believes in asserting his own interest. This virtually all theorists of politics can accept. Further, however, he seems to recognize little or no restraint on this assertion of his interest, and no need to compromise with others. He also recognizes no limitation on the means which may be employed to further his group's interest. A vigilante, by definition, resorts to a secretive sort of violence to maintain his political position. An anti-political, and especially anti-democratic, attitude is very much evident in vigilantism.>

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**VIGILANTISM DESIGNED TO SOLVE CRIME PRODUCES MORE VIOLENCE,
UNDERMINING THE MORAL SYSTEM OF PUNISHMENT**

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 21

<The potential costs of crime-control vigilantism are obvious: establishment violence can rapidly become worse than the crime itself. Punishments tend to be disproportionate; the innocent have little protection; and quasi-criminal elements are attracted to the movement as a semilegitimate avenue for the expression of their antisocial tendencies. In addition, when law enforcement officials participate in the acts of violence, whatever moral validity the formal system of laws retained may be undermined.>

VIGILANTISM REINFORCES THE CYCLE OF VIOLENCE:**EXACTING EXCESSIVE COMPENSATION VIA VIGILANTISM SPARKS AN
ENDLESS SERIES OF ACTS OF RETALIATION****Robert Nozick, *Anarchy, State, and Utopia*, New York: Basic Books, 1974, pp 11.**

<In a state of nature, the understood natural law may not provide for every contingency in a proper fashion, and men who judge in their own case will always give themselves the benefit of the doubt and assume that they are in the right. They will overestimate the amount of harm or damage they have suffered, and passions will lead them to attempt to punish others more than proportionately and to exact excessive compensation. Thus private and personal enforcement of one's rights (including those rights that are violated when one is excessively punished) leads to feuds, to an endless series of acts of retaliation and exactions of compensation.>

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VIGILANTISM IS USED AS AN EXCUSE TO GENERATE MORE VIOLENCE AND UNDERMINE SOCIAL STABILITY - THE JUAREZ MURDERS PROVE Rowan, Camilla. "Citizen Vigilantes Pledge to Kill 'One Criminal A Day' in Juarez." January 26, 2009. Guanabee. <http://guanabee.com/2009/01/citizen-vigilantes-juarez>

<Promising to take justice into their own hands, the group's manifesto also stated that they were a non-political group backed by business owners who'd become frustrated with crime in Juárez. Over 1,600 murders were reported just last year in Juárez, and 40 more murders have already been reported since January 1st. Citizens of Juárez are becoming impatient and disheartened by the failure of counter-crime efforts, as evidenced by one headline that responds to the vigilante's promise with the challenge "Why only one ... ?"

The Juárez government and police are annoyed by the prospect of a vigilante group, arguing that even if the group is real, it's not their place to act as the law. But they think it's more likely that it's not a "citizen's vigilante" group at all.

"We really consider it is a strategy by a criminal organization to generate more violence and destabilize society in Ciudad Juárez," said the Attorney General for Chihuahua state, Patricia Gonzalez. >

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VIGILANTISM IS OFTEN A GUISE FOR VIOLENT INDIVIDUAL OR CRIMINAL MOTIVES.

Lia, Brynjar. A Police Force Without a State: A History of the Palestinian Security Forces in the West Bank and Gaza. 2006: Garnet & Ithica Press. p. 12

<Vigilante policing by paramilitary insurgent groups may easily deteriorate into violence, which may alienate the paramilitaries from society. Silke observes that in Northern Ireland individuals were targeted after being involved in a dispute with a member of a paramilitary organization, even if the dispute were entirely personal in nature. The paramilitaries gave immense importance to protecting their authority. The standing an individual gains within the community on becoming a paramilitary member represents one of the most tangible awards that members receive. Consequently, the paramilitaries are very protective of their status and can respond violently to any show of disrespect. One result of this is that “it is fairly easy to conduct personal vendettas under the guise of vigilantism.” A number of paramilitary vigilante groups in Northern Ireland, especially among the Loyalist paramilitaries, also degenerated into organized criminal networks involved in drug-trafficking, illustrating another of the many paradoxes in the dynamics of ‘policing’ by non-state actors in divided societies. >

Victory Briefs: www.victorybriefs.com

VIGILANTES DO NOT SEEK VENGEANCE, BUT JUSTICE, BUT BECOME VICTIMIZERS THEMSELVES.

O'Connor, T. "Vigilantism, Vigilante Justice, and Self-Help." APSU.

<http://www.apsu.edu/oconnort/3410/3410lect04a.htm>

<The vigilante knows it is not vengeance they seek, nor even some lending of respectability to the spirit of vengeance. The vigilante is no avenger. The vigilante simply wants punishment, or just deserts, and they want it swift and sure. The only problem is that vigilante justice is sometimes too swift and too sure. Vicious beatings and on-the-spot executions do not fit the crime. The only purpose that vigilantism serves is to turn the tables on those criminals who make victims out of people. Vigilantes desperately want to avoid thinking of themselves as victims, so they become victimizers themselves. It might even be said that vigilantes ultimately become criminals, since they must rationalize what they know is improper behavior in the strongest terms possible -- self-defense, social defense, lex talionis, natural law, patriotism, religion, honor --- all the time claiming that they are engaging in the most law-abiding behavior or duty there is -- the duty to preserve the sacred right to protect one's self. It is a frontier ethic of survival and self-responsibility. If no one else will do anything, especially the legal system, then it is the red-blooded duty of any honest patriot to act, to kill-or-be-killed, to take a stand and do one's part. >

VIGILANTES OPERATE OUTSIDE OF THE LAW REINFORCING THE INJUSTICES AND EXTREMISM OF THE CRIMINALS THEY ARE ATTEMPTING TO PUNISH

Madison, Arnold. Vigilantism in America. New York: Seabury Press, 1973. P. 13-14

<Whether historical or contemporary, vigilantism rises to fight a threat that may be to moral values, to life, or to property. The main thrust of vigilantism then becomes an effort to reestablish the more traditional values of a community. Or vigilantism can be a means for the establishment to maintain its position of power. The danger is clear. Vigilantes operate outside the law, without restraints; thus injustices and extremism are almost a certainty as an outcome of their activities.>

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

VIGILANTISM LEADS TO EXCLUSION/OTHERIZATION:

VIGILANTE JUSTICE SEPARATES THE STATE FROM THE COMMUNITY AND IN THE PROCESS BECOMES THE ARBITER FOR WHO BELONGS TO THE "COMMUNITY" AND WHO SPEAKS FOR IT

Andrew E. Taslitz "Daredevil and the Death Penalty" 1 Ohio State Journal of Criminal Law 699, Spring 2004.

<Vigilante violence and lynching in particular are rooted in an ideology of popular sovereignty: the people or communities are the real sovereigns; whenever those to whom they have delegated authority fail, it is the people's right to take back that authority into their own hands. This ideology is generally not anti-state, for "vigilantism commonly thrives on the idea that the state's legitimacy at any point in time depends on its ability to provide citizens with the levels of law and order they demand." n6 Vigilantism is thus "often a vote of no confidence in state efficiency rather than in the concept of the state itself." n7 Vigilantes thus separate the state from the community, the former's job being to protect the latter. The problem is in defining who belongs to the "community" and who speaks for it.>

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VIGILANTISM ALLOWED FOR ASIAN AMERICANS TO BE CONSTRUED AS PERPETUAL FOREIGNERS.

Hing, Bill Ong. "Vigilante Racism: The De-Americanization of Immigrant America." May 10, 2002. Michigan Journal of Race & Law: Vol. 7. p. 9-10

<More recently, Chinese American scientist, Wen Ho Lee, lost his job and was jailed for nine months before a former government counterintelligence chief acknowledged that racial profiling had occurred.⁴⁵ The government dropped all but one charge against Lee, and the federal judge handling the case ordered Lee released and apologized to him.⁴⁶ Even the New York Times acknowledged that its reporting on the case was flawed and "fell short" of its standards.⁴⁷ As a result of the de-Americanizing profiling of Chinese American scientists at government labs, many feel ill at ease working at labs and others have felt pressured into quitting.⁴⁸

These official acts essentially condoning private vigilante actions do much to solidify the image of people of color with immigrant roots as perpetual foreigners. This encourages private individuals to engage in discriminatory acts and reinforces their hostility. As such, they become prime targets for de-Americanization by vigilante racists.>

Victory Briefs: www.victorybriefs.com

VIGILANTISM HAS HISTORICALLY BEEN USED IN THE U.S. TO EXCLUDE ASIANS FROM MEMBERSHIP INTO THE AMERICAN COMMUNITY.

Hing, Bill Ong. "Vigilante Racism: The De-Americanization of Immigrant America." May 10, 2002. Michigan Journal of Race & Law: Vol. 7. p. 8

<Historical vigilante private actions designed to keep Asian and other immigrants of color from membership into the community found support from xenophobic officialdom. For example, laws often required Chinese to live outside the city limits,³⁶ or a local ordinance would bar laundries of wooden construction when officials knew only Chinese businesses would be affected.³⁷ California barred Chinese from testifying in court,³⁸ while several states prevented all Asian immigrants from owning land or marrying Whites.³⁹ Of course Congress got into the act as well. In 1870, Chinese immigrants officially were told that they could never become Americans. In the post-Civil War era, Congress moved toward granting naturalization rights to residents of African descent. As the legislation progressed, Senator Charles Sumner of Massachusetts moved to add Chinese immigrants to the list of those who could be naturalized, a right that constitutionally was reserved for "free [W]hite men."⁴⁰ But the amendment failed, and Chinese were specifically excluded from the right to naturalize.⁴¹ The message to Chinese immigrants—that they could never be real Americans—was based on the view that Chinese were so different, that they could never assimilate and adopt real American values.>

Victory Briefs: www.victorybriefs.com

VIGILANTISM IS BASED ON OVER-IDENTIFICATION WITH AUTHORITY

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." *Vigilante Politics*. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 24

<The vigilante, it might be posited, overidentifies with authority rather than rebelling against it.

Basically an authoritarian character, the vigilante perceives the establishment as a punitive father figure and identifies with the aggressor. A harshly punitive father produces an attempt at extreme resolution; the vigilante turns his anger against others who share his own forbidden impulses to challenge authority. He identifies with power to remove himself from the domination of power. This may help to explain why many vigilante leaders who are not members of the system's elite are among the most vehement defenders of the status quo. The vigilante assumes the desired role of the father as protector of home and mother. He threatens interlopers who represent denied aspects of himself.

VIGILANTISM RELIES UPON A CONCEPTION OF COMMUNITY THAT PUNISHES THE OUTSIDE "OTHER"

Andrew E. Taslitz "Daredevil and the Death Penalty" 1 *Ohio State Journal of Criminal Law* 699, Spring 2004.

<For most vigilantes, the "community" is a local one. Even in the locality, however, there are always some despised "others" outside the community. Indeed, the very justification offered for vigilante action is often the government's failure to protect the community from those who are in its midst, but are not truly of it—those who would drain its life. Thus, in nineteenth century San Francisco, many [*704] residents believed that "vagabonds and thieves controlled the elections." n8 Vigilante action was needed to wrest control from and punish these "very bad men." n9 In response to challenges to the legality of violence not sanctioned by formal law, orator William Durr told cheering San Franciscans that "while Americans owe their Constitution reverence and obedience, 'the right to revolutionize is reserved to us.'" n10 Durr insisted that the people retained "the privilege of so regulating our local affairs that our lives and property will be made safe through the correct administration of the law under the Constitution." >

Victory Briefs: www.victorybriefs.com

VIGILANTISM REINFORCES EXTREME NATIONALISM – AMERICAN CONTROL OF THE FOREIGN ‘OTHER’ IS PROOF

Bill Ong Hing, "Vigilante Racism: The De-Americanization of Immigrant Culture" 7 Michigan Journal of Race & Law 441, Spring 2002.

<The domination of the Euro-centric culture and race - in no small part the result of immigration policies - has resulted in a Euro-centric sense of who is an American in the minds of many. Many of that mindset have developed a sense of privilege to enforce their view of who is an American in vigilante style. The de-Americanization of Americans of Muslim, Middle Eastern, and South Asian descent in the wake of September 11 is a manifestation of this sense of privilege and the perpetual foreigner image that Euro-centric vigilantes maintain of people of color in the United States - especially those whom the vigilantes identify with immigrant groups. The privileged perpetrators view themselves as "valid" members of the club of Americans, telling the victims that some aspect of their being - usually their skin color, accent, or garb - disqualifies them from membership.>

VIGILANTISM PROMOTES RACISM:

VIGILANTE RACISM IS UNJUST – KATRINA PROVES IT STILL EXISTS

Thompson, A.C. "No Justice for the African-Americans Targeted by White Vigilantes After the Katrina Flooding." December 20, 2008. Altnet.

http://www.altnet.org/story/114286/no_justice_for_the_african-americans_targeted_by_white_vigilantes_after_the_katrina_flooding/

<In the days after Hurricane Katrina swept through Louisiana and Mississippi, the bodies of African American men began to turn up on the streets. But these weren't the bloated corpses of drowned Gulf residents whose images were beamed around the world. Instead, their nameless bodies contained bullet holes, slain at the hands of persons unknown.

A number of these killings took place in the community of Algiers Point, a small, isolated place west of the Mississippi and a "white enclave" in a largely African American area. Situated between the Lower Ninth Ward and the rescue point for so those who were trying to flee, a band of residents there responded to accounts of post-hurricane looting by arming themselves to the teeth and going out in search of criminals, lynch-mob style.

"The existence of this little army isn't a secret," reports investigative journalist A.C. Thompson in his groundbreaking investigative article just published in The Nation, "Katrina's Hidden Race War" (read at the bottom of this interview. "In 2005, a few newspaper reporters wrote up the group's activities in glowing terms in articles that showed up on an array of pro-gun blogs; one Cox news story called it 'the ultimate neighborhood watch.')

Victory Briefs: www.victorybriefs.com

AMERICA HAS A LONG HISTORY OF RACIST VIGILANTISM.

Dyer, Stan. "Vigilante Justice: Lynching." <http://www.helium.com/items/244998-vigilante-justice-lynching>

<American History records colonists using "tar and feather" justice, or running a culprit out of town "on a rail". Sometimes even both. In this way, vigilant committee justice and terrorism from the fear of this type of retaliation became a trademark of American society. In fact, British agents who tried to enforce the Stamp Act in the colonies soon found out how real the threat was. For Black America, it was always a reality, and became more pronounced in the period after the Civil War.

Beginning around 1867, organizations such as the Knights of the White Camelia, the Constitutional Union Guards, the Council of Safety, and a number of other such "Gun Clubs" formed as White protective societies with the outward purpose of providing law and order during Radical Reconstruction. Actually, they were terrorists using force, ostracism, bribery and murder to deprive Blacks of political equality. One of their chief methods of terrorism was lynching. Even when the United States government outlawed certain organizations, they went underground and continued their practices.

From 1884 to 1900, there were more than 2,500-recorded incidents of lynching, mostly against Blacks. Who knows how many others occurred, but went unreported? In the first year of the 20th century, 100 African Americans died at the hands of lynch mobs and by World War I, the total rose to 1,100. The lynch mobs felt justified in their actions and practiced it with little remorse. Lynching became so common and so accepted, people went as far as to produce and sell post-cards.>

Victory Briefs: www.victorybriefs.com

THE “JUSTICE” THAT VIGILANTES ESPOUSE IS NOT NECESSARY GOOD; THE KKK WAS A VIGILANTE GROUP

Lakoff, George. *Moral Politics*. p. 278

The KKK was a vigilante group, one that saw it as a moral act to bring wrongdoers to justice itself. The KKK saw its job as righting the wrongs of a particular kind—reversals of the moral order. If an uppity black or Jew or immigrant got too wealthy or powerful or haughty, the Moral Order was being reversed and it was the job of the KKK to set it right. The Moral Order, as they saw it, gave them the moral authority to hold their own courts and mete out their own punishments. The KKK operated according to a bigoted, vigilante version of Strict Father morality.

ANTI-BLACK VIOLENCE THROUGH GROUPS LIKE THE KKK CHARACTERIZES COMMUNITY BASED VIGILANTISM

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." *Vigilante Politics*. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 13

<Much of the anti-black violence in the United States exhibits the characteristics of community based vigilantism. The early Ku Klux Klan was, in part, intended to terrorize Negroes back into their “proper position” after the upward mobility they experienced during the Reconstruction. Morris Janowitz notes that some of the race riots that occurred in the first quarter of the twentieth century expressed the desire of certain elements of the white community “to ‘kick the Negro back into his place.’” Such sentiments probably continue to contribute to white violence against blacks, such as the anti-busing incidents in Pontiac, Michigan in 1971.>

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A LACK OF PROCEDURAL SAFEGUARDS ALLOWS VIGILANTISM TO PERSECUTE RACIAL AND ETHNIC MINORITIES

Madison, Arnold. *Vigilantism in America*. New York: Seabury Press, 1973. P. 37

<When violence erupted in the frontier, the conflict was often between reds and whites. "The only good Indian is a dead Indian," was a popular saying and belief of the times. Blacks were not able to rise above a worker level. Orientals were targets for potshots without any fear that the trigger puller would be prosecuted. In parts of the South lynching a Negro was legal just as shooting an Indian or beating an Oriental or Mexican was socially and legally permissible in other parts of the country. Vigilantism worked against the lowly, the unpopular, those least able to fend off attacks. Californian vigilantes dealt more severe penalties to Meixcans, Chinese, and Chileans than to other captives. Too often vigilantism was merely a means for persecuting a minority rather than restoring law and order.>

VIGILANTE VIOLENCE HAS BEEN USED TO CONTROL AND INTIMIDATE RACIAL MINORITIES

David Jacobs, Jason T. Carmichael, Stephanie L. Kent. "Vigilantism, Current Racial Threat, and Death Sentences" *American Sociological Review*, Vol. 70, No. 4 (Aug., 2005), pp. 656-677

<A common dominant group reaction to the threat to their ascendance posed by larger minority populations involves extralegal violence. The lynching of ex-slaves that occurred after Reconstruction is an excellent example. Black (1976) has argued that because they are used for the same ends, illegal and legal social control methods are at least partly interchangeable. Phillips (1987:365), quoting Turk (1982:351), claimed that "both official and unofficial killings constitute 'behavior intended to establish and maintain an unequally beneficial relationship.'" According to many scholars, whites often used lynchings to control ex-slaves and to ensure that they did not forget their subordinate place in a racial caste system.>

VIGILANTE JUSTICE LEADS TO ANARCHY:

Even vigilante justice when it is perceived the government cannot solve oppression devolves into anarchy

William E. Burrows, *Vigilante!*, New York: Harcourt Brace Jovanovich, 1976, pp 8.

<Th(e) conflict between one law and another, between written and natural, runs deep into vigilante rationale. It's a conflict always to be reconciled, and when vigilantes have surfaced it has been reconciled emotionally. Kill or be killed. Them or us. If the people who are being plundered and perhaps murdered cannot, or think they cannot, get adequate help from the constituted authorities, they face the dilemma either of chalking up their losses and probably getting hit again or of catching and punishing their oppressors. When unchecked, such "popular justice" becomes anarchy, and there has probably never been a vigilante who didn't understand that. The chronicles of vigilante actions are soaked with stories of men who have agonized over this conflict, as well as the stories of others who never gave it a second thought. >

VIGILANTE JUSTICE PROMOTES CORRUPT STATES:**VIGILANTISM PROMOTES VIOLENT AUTHORITARIAN STATES**

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 15

<At times, official support of one side in a communal struggle may extend beyond individuals. The results may range from biasing the manner in which these individuals fulfill their duties to an apparently deliberate policy of illegal regime coercion of deviant communities. At its extreme, this "official vigilantism" in violation of the regime's own formal standards becomes a program of terror. A recent example of official vigilantism against a communal group striving for a redistribution of political and economic values is that of the West Pakistani pogrom against the Bengalis. This was an attempt by the dominant groups of the country to preserve their position from the threat of the Awami League, even though the League had triumphed in the election sponsored by the regime. The history of governmental coercion of the American Indian in violation of a series of treaties supplies another example of official vigilantism in the area of communal group control.>

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THOUGH VIGILANTISM IS ESSENTIALLY A VOTE OF NO CONFIDENCE IN STATE EFFICIENCY, IT IS OFTEN APPROPRIATED AS A POLITICAL TOOL OF OPPRESSION AND EXPULSION FROM THE COMMUNITY

Abrahams, Ray. *Vigilant Citizens: Vigilantism and the State*. Malden, MA: Blackwell, 1998. P. 4

<Paradoxically, in contrast to repulsion by its threats to the established order, it is also likely to displease more radical critics of the state. For them, vigilantism can, by its nature, never go far enough. In spite of its potential for subversion, it commonly displays a non-revolutionary and even a reactionary character, and Maxwell Brown interestingly uses the term ‘conservative mob’ when discussing its practitioners. Rather than reject the state, vigilantism commonly thrives on the idea that the state’s legitimacy at any point in time depends on its ability to provide citizens with the levels of law and order they demand. Its emergence is often a vote of no confidence in state efficiency rather than in the concept of the state itself. Moreover, vigilantism is not always what it claims to be. It may turn out on inspection to be an elitist weapon dressed in populist attire and more concerned with politics than law; and it not unknown for its practitioners to be ‘off-duty’ members of the police or militia bypassing inconvenient formalities in their pursuit of political opponents and other ‘undesirable’ elements in their society.

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VIGILANTISM ALLOWS AUTHORITARIANS TO MAINTAIN CONTROL, WHO IN TURN PROMOTE MORE VIGILANTISM

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 16

<On a more abstract level, authoritarian elements may consider “democratic” guarantees as hindrances in dealing with revolutionary, or even reformist, movements. Such was evidently the case after the October 1968 student riots in Mexico City. Certain important members of the dominant Mexican political party, the Partido Revolucionario Institucional, apparently participated in the creation of youth combat groups, known as the Halcones (Falcons), organized to prevent future student riots and to “maintain order.” On June 11, 1971, ten thousand university students supporting a strike were attacked by several hundred Falcons armed with bamboo staves, pistols, automatic rifles, and submachine guns.

Some politically motivated vigilantes enjoy the sympathy, and even support, of their national governments, or these governments pretend to be unaware of their activities. During 1971, for example, the Balaguer regime in the Dominican Republic refused to admit that a vigilante group known as the “Band” was terrorizing individuals suspected of leftist leanings. Yet the Band was reputed to have murdered at least fifty leftist opponents and beaten and harassed others.>

Victory Briefs: www.victorybriefs.com

VIGILANTISM IS OFTEN MANIPULATED BY STATES BECOMING THE DIRTY WORK OF REPRESSION BREEDING MORE CONFLICT

David Kowalewski. "Counterinsurgent Vigilantism and Public Response: A Philippine Case Study" *Sociological Perspectives*, Vol. 34, No. 2 (Summer, 1991), pp. 127-144

<Since vigilantes are mobilized by regimes to carry out the "dirty work" of repression and shield officials from criticism, they take much of the political flak hurled by outraged citizens. Vigilante repression breeds conflict. It exacerbates and widens preexisting cleavages. Vigilantism arises from the need of regimes to mobilize auxiliary forces to counter growing dissident threats to their power. It represents less a rising of the masses than a calculated manipulation by regimes.>

THE STATE SUPPORTS VIGILANTE VIOLENCE

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." *Vigilante Politics*. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 14

<Although in the cases of communal vigilantism just cited the participants were generally private persons, supervisory officials often appeared to be tolerant of the violence of dominant groups. Malaysian troops and police were accused of dealing quite harshly with the Chinese community, for example, while doing little to restrain the Malays. Janowitz reports that in the Chicago race riots of 1917 and 1919, the police were deficient in their attempts to protect black enclaves from white violence, and even "occasionally assisted the white rioters." Similarly, in Northern Ireland the Protestant B Specials, a branch of the police force, often abused Catholics before the former were dissolved by British authorities. Thus, although the formal system is supposedly evenhanded in enforcing the law, the occupants of official positions may identify with the dominant communal groups and essentially support their efforts to maintain the status quo.

VIGILANTISM DECREASES HUMAN RIGHTS:

VIGILANTISM LIMITS INDIVIDUAL RIGHTS TO DUE PROCESS AND LIBERTY

Abrahams, Ray. Vigilant Citizens: Vigilantism and the State. Malden, MA: Blackwell, 1998. P. 17

<It is clear that the debate about crime control, which vigilante activity both responds to and helps to generate, has to be seen not only as part of an argument about the functions of the state and its ability to fulfill them, but also in relation to the balance between state protection of the rights of individuals and the promotion of rights asserted to belong to the community or to society as a whole. Although vigilantism supports the rights of individuals to band together in the fight to maintain order, it very often involves repression of individual rights to due legal process as laid down by the state. In addition, it may also go beyond the boundaries of legally defined crime and demand adherence to some norms of good and bad behavior about which the state prefers to leave individuals free to choose.

VIGILANTISM FAILS TO RESPECT BASIC RIGHTS

Madison, Arnold. Vigilantism in America. New York: Seabury Press, 1973. P. 3

<Today, neo-vigilante bands are springing up all over the United States, all sharing an impatience with some existing situation and all demanding immediate action. A vigilante group is one that forms with a common desire to change a certain condition. The vigilantes feel that the end justifies the means. To attain their end they will employ what seems to them the most effective method, with little regard for either the existing laws or the basic rights of human beings. In fact, vigilantes appear to believe that the people who offend them have no rights. This seems a curious philosophy for people living in a democracy; it may stem from the vigilantes' often fanatic certainty that they are completely in the right.>

Victory Briefs: www.victorybriefs.com

VIGILANTES EXECUTE JUSTICE AT THE EXPENSE OF DUE PROCESS RIGHTS

Ehud Sprinzak, "From Messianic Pioneering to Vigilante Terrorism - The Case of the Gush Emunim Underground". *Journal of Strategic Studies* 10/4 (1987) pp.194-216;

<A vigilante movement never sees itself in a state of principled conflict either with the government or with the prevailing concept of law. It is not revolutionary and does not try to bring down authority. Rather, what characterizes the vigilante state of mind is the profound conviction that the government or some of its agencies have failed to enforce their own order in an area under their jurisdiction. Backed by the fundamental norm of self-defense and speaking in the name of what they believe to be the valid law of the land, vigilantes, in effect, enforce the law and execute justice. 'Due process of the law' is the least of their concerns.">

VIGILANTES BELIEVE THE ACCUSED HAVE NO RIGHT TO PROTECTION FROM THE LAW THROUGH CIVIL RIGHTS – THIS IS A SLIPPERY SLOPE TO JUSTIFYING ANY VIOLATION OF THE RIGHT TO LIFE

Madison, Arnold. *Vigilantism in America*. New York: Seabury Press, 1973. P. 8-9

<Fear has convinced the vigilantes that their enemy has no civil rights. Only one more step is needed for these people to be assured that the person or person they see as their enemy have no right to live. And therein lies the true danger of vigilantism. People genuinely concerned about some facet of society that they feel threatens their lives, property, or way of life become so determined to eliminate this factor that they will do anything—except follow legal procedures—to effect that change. A vast difference exists between a community-action program that follows democratic and legal procedures in an attempt to better an area and a vigilante group that works to get rid of that same malevolence by any means possible. Vigilantes mouth words about law and order and moral decay, but almost without exception, they display an arbitrary attitude toward law and a frightening disrespect of human liberties.>

Victory Briefs: www.victorybriefs.com

VIGILANTISM UNDERMINES THE THRESHOLD OF LIBERTY AND CIVIL RIGHTS

Madison, Arnold. *Vigilantism in America*. New York: Seabury Press, 1973. P. 10

<This feeling coupled with an over-interpretation of the meaning of liberty has been a basic cause of vigilantism all through American history. Vigilantes always believe that they have the liberty and the right to take the law into their own hands. They fail to see that freedom imposes responsibilities. For instance, each person has a duty to be certain that his or her pursuit of freedom does not infringe upon another's civil rights. Vigilantes do not or will not observe this aspect of living in a democracy.>

VIGILANTISM UNDERMINES SECOND-ORDER PROCEDURAL RULES THAT PROVIDE DUE PROCESS RIGHTS PROTECTIONS

Abrahams, Ray. *Vigilant Citizens: Vigilantism and the State*. Malden, MA: Blackwell, 1998. P. 155

<The second-order rules about the rules also take several forms. Some are 'legislative' inasmuch as they define how and by whom first-order rules can be made. Others are 'jurisdictional', defining who is allowed to apply and enforce the rules. Others again are rules of 'due process', defining the proper circumstances and procedures for such application and enforcement. It will immediately be clear that, when a group of vigilantes seize and punish a suspected cattle rustler, they are enforcing a first-order legal rule against theft, while clearly breaking rules of jurisdiction and due process. If such a group seizes and punishes someone for being a witch, or for organizing a strike, or for being sympathetic to the social equality of blacks and whites, they are also likely to be in conflict with the state's legislative rules, since they are dealing with 'offences' that most states do not recognize. At the same time, it is clear that there is overlap between the first-order and second-order zones to the extent that the former typically includes assertions of the rights of citizens to be dealt with in accordance with the latter.>

VIGILANTISM UNDERMINES DEMOCRACY:

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

Victory Briefs: www.victorybriefs.com

VIGILANTISM IS BY DEFINITION A VIOLATION OF DEMOCRACY
Stettner, Edward. "Vigilantism and Political Theory." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 67

<This point can be amplified by examining David Easton's definition of politics as "the authoritative allocation of values for a society." This definition, probably the most widely used contemporary definition of politics, emphasizes that a formal government is not a necessity for politics to exist. Yet Easton argues that "every society provides some mechanisms, however rudimentary they may be, for authoritatively resolving differences about the ends that are to be pursued, that is, for deciding who is to get what there is of the desirable things. An authoritative allocation of some values is unavoidable." It seems clear that the vigilante does not wish to "resolve" conflicts; he wishes simply to enforce his own desires. The methods he employs are deliberately chosen to frustrate any process of accommodation. Of course, a particular allocation of values is thereby guaranteed, but through what we have to call a rather nonpolitical process.

If we can agree that the vigilante attempts to avoid "politics" as much as possible, then it goes without saying that vigilantism is antithetical to any kind of democratic politics, because democratic theory presupposes a competition among different interests.>

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VIGILANTES UNDERMINE THE DEMOCRATIC PROCESS

Stettner, Edward. "Vigilantism and Political Theory." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 69

<The democratic theorist insists that everyone in the system must accept this upwardly mobile position of the former out-groups (the groups gaining power) at least if the democratic requirements of free discussion, equal participation, and majority rule have prevailed. Yet by definition the vigilante does not abide by these rules and results. The resort to violence is, of course, a denial of the required democratic processes. More fundamentally, the vigilante renounces the essential quality of associability which the democrat sees as the essential temper of political man. He also refuses to accept the view of men as essentially equal (at least for political purposes) which is a necessary part of the democratic creed.>

**VIGILANTE JUSTICE VIOLATES STATE MONOPOLY ON FORCE/RIGHT TO
PUNISH:**

THE STATE MAINTAINS A MONOPOLY ON FORCE IN A SOCIETY AND ONLY IT DICTATES WHO MAY USE FORCE AND UNDER WHAT CONDITIONS. VIGILANTISM VIOLATES THIS MONOPOLY.

Robert Nozick, *Anarchy, State, and Utopia*, New York: Basic Books, 1974, pp 23.

<A state claims a monopoly on deciding who may use force when it says that only it may decide who may use force and under what conditions; it reserves to itself the sole right to pass on the legitimacy and permissibility of any use of force within its boundaries; furthermore it claims the right to punish all those who violate its claimed monopoly. The monopoly may be violated in two ways: (1) a person may use force though unauthorized by the state to do so, or (2) though not themselves using force a group or person may set themselves up as an alternative authority to decide when and by whom the use of force is proper and legitimate.>

VIGILANTISM IS A POLITICAL WRONG.

Binder, Guyora. "Punishment Theory: Moral or Political?" June 4, 2002. *Buffalo Criminal Law Review*, Vol. 5:321.p. 328

<The wrong of vigilante justice is a political wrong and the right to punish conferred by law is a political right. The offender in this case deserves punishment, and the persons punishing him know he deserves punishment. But they have not publicly established that he deserves punishment. They have not proven his guilt before any one who might seek to question it, nor have they publicly established reasons why it is necessary to punish—here to execute—one who is guilty of this crime. Nor have they insured that anyone stands ready to review their actions and to remedy their mistakes or abuses. The problem with our hypothetical lynching is not with the consequence that the murderer gets punished, but with the institution doing the punishing. The defect is not of morality, but of legitimacy.>

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**A PUNISHMENT'S VALIDITY SHOULD BE EVALUATED POLITICALLY,
NOT ETHICALLY.**

Binder, Guyora. "Punishment Theory: Moral or Political?" June 4, 2002. Buffalo Criminal Law Review, Vol. 5:321. p. 366

<Most criminal law theory treats normative questions about the imposition of punishment as moral questions. Accordingly, criminal law theory has been organized as a debate between utilitarian and deontological ethics. But these moral conceptions of punishment have paradoxical implications. Thus, an act utilitarian conception of punishment seems to endorse framing the innocent, while a deontological conception of punishment seems to endorse vigilante justice. I have therefore argued that punishment should be seen as an institution rather than a behavior and should be evaluated politically rather than ethically.>

RULE OF LAW GOOD:

THE RULE OF LAW, RATHER THAN POPULAR WILL, MUST PROVIDE THE SAFEGUARDS FOR PROPER ADMINISTRATION OF JUSTICE

Culbertson, William C. *Vigilantism: Political History of Private Power in America*. Westport, CT: Greenwood Press, 1990. P. 12

<John Locke and modern politics answer in the negative. The administration of justice is not a role for popular tribunals, no matter how well they may magistrate or by what law, popular or general will. Private power is unmanageable, and without the unbiased majesty of the law the renderings of popular tribunals are considered illegal or extra-legal, but never legal. For the popular tribunal almost always contains men who have been wronged and have a particular interest to seek; they sit in judgment of their own case, be it personal or a personal attachment to the community. Law is a social restraining device that functions as a safeguard against the whims of change.>

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ASSOCIABILITY, OR RESPECTING THE LEGAL PROCESS EVEN WHEN YOU DISAGREE, IS A NECESSARY PRE-REQUISITE TO GOOD GOVERNMENT
Cahn, Edmond. *The Predicament of Democratic Man* (New York: Dell, 1962) pp. 164-165

<Associability...is the quality that fits one to cooperate as an equal in the work of a group or institution. An associable person gives the group its full due by contributing a store of information for its use, submitting his opinions for general consideration, respectfully weighing those of the other members, deliberating before he takes a final position, accepting the group's decision with good grace, and doing his functional share to put it into effect. Associability holds equal men together when they disagree. It prompts the members of a minority party to support laws and measures that the majority may have thrust on them against their interests and inclinations, and because it prompts the majority to exercise reasonableness, moderation, and restraint because some day they too may suffer the vicissitudes of political fortune and come to occupy the place of a minority. To be associable one must feel respect for his fellow citizens.>

VIGILANTISM UNDERMINES THE RULE OF LAW:

VIGILANTISM IMPEDES THE DEVELOPMENT OF FUNCTIONAL POLITICAL INSTITUTIONS

Rosenbaum, H. John and Peter C Sederberg. "Vigilantism: An Analysis of Establishment Violence." *Vigilante Politics*. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 20

<In general, vigilantism may be initially eufunctional for the stabilization process; but it tends to be dysfunctional over the long run. The short-run gains of establishment violence accrue from controlling the process of mobilization and its attendant strains. The longer term costs relate to the negative nature of vigilantism; that is, though it may buy time, it cannot replace formal political institutions and, indeed, is probably antithetical to their growth.>

VIGILANTISM UNDERMINES POLITICAL INSTITUTIONS RESULTING IN MORE VIOLENCE

David Kowalewski. "Counterinsurgent Vigilantism and Public Response: A Philippine Case Study" *Sociological Perspectives*, Vol. 34, No. 2 (Summer, 1991), pp. 127-144

<Indiscriminate use of force against uninvolved citizens, typical of vigilante operations, activates a number of sectors against the formations. Indeed, vigilantism generates internal tensions within the regime countermovement. The various bureaucracies may disagree on the legality and efficacy of vigilantism. Whereas the professional coercive organs of a regime may support vigilantism in principle, they often clash with the groups over operational procedure and turf. Indeed, vigilantes clash with each other, creating law and order problems for coercive organs. Parliamentary and judicial organs may oppose the violations of constitutional rights by vigilantes. To the extent that dependent regimes rely on foreign powers for support of vigilante operations, a nationalistic reaction against external interference can arise, further complicating issue positions. Vigilantism undermines public confidence in regime institutions.>

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VIGILANTISM UNDERMINES THE EXISTING SOCIAL ORDER

Stettner, Edward. "Vigilantism and Political Theory." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 65

<The crime-control vigilante appears to be a case in which "law" and "order" are in fact separated for practical reasons. The vigilante might well wish to have both, but he has determined that he cannot, and has chosen order over law. The vigilante in this case may not be seeking order as his prime goal. He may seek a just society, a free society, an equalitarian society, or whatever. His disenchantment with the regime in practice turns him toward extralegal channels to realize the principles he seeks in his society. Locke's point is that however well intentioned such men may be, however much they intend simply to enforce the Law of Nature against criminals, there are major "inconveniences" to a reliance on extralegal actions. Men will punish excessively, and they will fail to punish themselves or their friends for crimes similar to those for which they punish others. As Rosenbaum and Sederberg argue, the short-run results of crime-control vigilantism may possibly be positive, but the long-run results are not likely to be. Locke expects confusion and disorder to result from any attempt to enforce order outside of accepted political institutions.>

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VIGILANTISM IS INEFFECTIVE AND UNDERMINES THE BASIS OF CIVIL SOCIETY

Stettner, Edward. "Vigilantism and Political Theory." Vigilante Politics. H. John Rosenbaum and Peter C. Sederberg, ed.. Philadelphia: University of Pennsylvania Press, 1976. p. 68

<Contrast this argument to the vigilante's. In the first place, the vigilante (of the social- or regime-control variety at least) does not really want to give up his claim to what he "succeeds in getting," as his resort to violence to preserve his existing interests shows. Rousseau, Locke, and Hobbes would all argue that such an attitude is self-defeating in the long run. Denial of a community of interests only endangers one's own fundamental interests. Rousseau would also argue that the vigilante does not achieve "civil liberty." What this means is that for Rousseau one of the virtues of the civil society is the sense of community that is fostered—the feeling of caring and being responsible for your fellow men, the fraternity, even the love, created in society. He remarks that "the better the constitution of a State is, the more do public affairs encroach on private in the minds of the citizens. Private affairs are even of much less importance, because the aggregate of the common happiness furnishes a greater proportion of that of each individual, so that there is less for him to seek in particular cares. This feeling of community, and the sense of "freedom" produced by participating in the group, is what Rousseau means by "civil liberty." It is a particular concept of freedom which would not be acceptable to all political theorists. For our purposes, however, we can see that the vigilante is implicitly denying this sense of community which Rousseau desires.>

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VIGILANTISM IS BY DEFINITION A VIOLATION OF THE RULE OF LAW AS IT UNDERMINE THE PROCESS OF A FAIR ADMINISTRATION OF JUSTICE. Brandon, Douglas L., Melinda L. Cooper, Jeremy h. Greshin, Alvin L. Harris, James M. Head, Jr., Keith R. Jacques, and Lea Wiggins. "Self-Help: Extrajudicial Rights, Privileges, and Remedies in Contemporary American Society [Part 1 of 2]." Vanderbilt Law Review. May 1984. 37 Vand. L. Rev. 845

<Law enforcement officials undoubtedly welcome the prospect of serving a community of "vigilant" citizens who watchfully and lawfully seek to detect and prevent crime. These officials, however, treat "vigilante" action, which typically occurs when citizens of a community band together and violently exercise police power authority in an unlawful manner, as abhorrent to the fair and predictable administration of justice. Society has affixed the label "vigilantism" to these extrajudicial group efforts to enforce criminal laws. Vigilantes typically regard themselves as enforcers of justice whom maintain social order and punish criminals when official law enforcement authorities cannot or will not perform their duties. This philosophy is intrinsically paradoxical because vigilante groups violate the law, often heinously, in the name of law and order. Whether vigilante conduct reflects frustration with inadequacies in the criminal justice system, expedient vengeance, or fundamental disagreement with contemporary behavioral norms and criminal laws, vigilantism aggravates the social ills that crime inflicts upon society.>

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REJECTING VIGILANTE JUSTICE DOES NOT SACRIFICE THE PRINCIPLES THAT IT RESTS UPON - LIBERTY IS AT THE HEART OF MANY APPROACHES TO JUSTICE BUT ONLY ADHERENCE TO THE RULE OF LAW ORDERS LIBERTY.

David Chang, "Beyond Uncompromising Positions: Hate Crimes Legislation and the Common Ground Between Conservative Republicans and Gay Rights Advocates" 21 Fordham Urban Law Journal 1097, Summer 1994.

<Rejecting vigilante justice does not require condemning the values underlying the vigilante's decision to act. One can be anti-gay, yet still support the criminalization of those who advocate anti-gay values through the vigilantism of hate-motivated assault. Indeed, conservative Republicans can support hate-crimes legislation as a pointed affirmation of the basic conservative principle that ours is a society of ordered liberty governed by the rule of law. Liberty is not ordered unless the state alone uses force to vindicate society's norms. The rule of law requires the enforcement of society's norms through regular and orderly procedures to ensure that only those who actually have violated the laws are punished. Thus, if homosexuals are to be regulated - a goal shared by hate-motivated criminals and many conservative Republicans - it must be through orderly public procedures, not through flailing ambushes committed by private individuals on the public's streets. >

VIGILANTE “JUSTICE” IS SUBJECTIVE:

VIGILANTES HAVE DIFFERENT INTERPRETATIONS OF JUSTICE – MAKING THEIR PUNISHMENT INCONSISTENT

Pitt News, “Vigilantes take law into own hands.” February 12, 2008.

<http://www.pittnews.com/2.2136/1.233686-1.233686>

<That brings me to the second problem I have with vigilantes, they all have their own interpretation of "justice." In the United States, for example, Ranch Rescue is a group of civilians who patrol the U.S.-Mexico border in an effort to deter illegal immigrants from crossing the border. This group is known to arm itself with assault rifles and according to an Associated Press report, has a history of armed confrontations.

Not only is its name ironically hypocritical, but Ranch Rescue is also violating the very constitution it vows to protect in more ways than I can count. And the worst part is, a lot of people in the United States view these men as heroes. What kind of democracy are we trying so desperately to protect from illegals? A country that advocates shooting down another person for trying to find a better life?

The trend continues, and is perhaps even worse, in regard to sex offenders. In most states, Megan's Law requires communities to release the name and address of any registered sex offenders living in the area. Of course the vigilantes aren't having any of this.

The vigilantes threaten, attack and, sometimes, even kill these people who, at the time, are technically obeying the law. I wonder if the vigilantes take the time to consider that one can become a registered sex offender simply for an indecent exposure charge. Does that merit a death sentence? >

PRE-EMPTIVE WAR/IRAQ = VIGILANTISM:

IN THE INTERNATIONAL COMMUNITY, PRE-EMPTIVE WAR MAY BE CONSIDERED VIGILANTE JUSTICE

Lucas, George, Jr.. "Methodological Anarchy and Vigilante Justice: Arguing about Preventive War" Paper presented at the annual meeting of the International Studies Association, Town & Country Resort and Convention Center, San Diego, California, USA, Mar 22, 2006 <Not Available>. 2009-02-05
<http://www.allacademic.com/meta/p98206_index.html>

<Consider the ongoing debate about preventive war or “preemptive self defense.”>

One important way to frame the terms of that debate is to cite the black-letter statutes of international law, treaties, and, after World War II, the provisions of the United Nations Charter. This way of arguing about war, the legalist mode of discourse, provides nearly unambiguous support for the view that the most recent war of intervention in Iraq was unjust. International law rather clearly prohibits the use of military force for any but defensive purposes, even under the most creative interpretations of the concept of “self-defense” or of “collective security” under the provisions of Article VII of the U.N. Charter. Even when a case for “anticipatory self-defense” can be made under existing law, there is certainly no provision granting the power to an individual nation-state to act unilaterally in the absence of recognition of an imminent threat by other members of the international community. Instead, as I will suggest below, the most lenient characterization one can offer of such practice from the standpoint of law is “vigilantism.”>

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THE WAR IN IRAQ CONSTITUTED AN ACT OF VIGILANTISM AGAINST A PERCEIVED FAILED INTERNATIONAL AUTHORITY.

**Lucas, George, Jr.. "Methodological Anarchy and Vigilante Justice: Arguing about Preventive War" Paper presented at the annual meeting of the International Studies Association, Town & Country Resort and Convention Center, San Diego, California, USA, Mar 22, 2006 <Not Available>. 2009-02-05
<http://www.allacademic.com/meta/p98206_index.html>Pg. 68 - 69**

<Let me now turn more specifically to the realm of law and international relations.

The instinctive reaction of many critics of U.S. President George W. Bush's original proposal in 2002 to wage a "preemptive war" against terrorism, unilaterally if necessary, was that such a proposal clearly constituted a direct violation of international law. One need not be an experienced scholar of international law to recognize that this judgment seems correct. The conception of an international community of nation-states operating under a common rule of international law contains nothing to suggest that an individual member of that community may make itself an exception, solely on its own authority, to the laws governing the remaining members of that community. It would test the ingenuity of even the most perverse legal mind to be able to cloak this doctrine in the legally-sanctioned guise of self-defense or collective security, as envisioned under the enforcement measures of Article VII of the United Nations charter.

One might argue instead that such actions as the U.S. proposed, and proceeded to carry out, constitute the kind of vigilante justice that the terms of the United Nations charter was envisioned to supplant. This is awkward in the extreme since, according to the U.S. Constitution, this nation and its leaders are bound by domestic law to adhere to the terms and provisions of treaties, such as the U.N. Charter, and other international agreements to which a President has been signatory and the Congress has proceeded to ratify, assuming that these international agreements are fully embodied in appropriate enabling domestic legislation (such as the Uniform Code of Military Justice). Provided that these conditions are met, the restraints on the use of military force as well as on the behavior of individual combatants that result from international law are legally binding on this government from the perspective of domestic law as well.

JAN-FEB 2009 Lincoln-Douglas

Resolved: Vigilantism is justified when the government has failed to enforce the law.

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Thus, the present administration's actions are "illegal" in a very strong and disturbing sense, unless the treaties and enabling domestic legislation are revoked or are re-written.

In defiance of this legalist perspective, President George W. Bush declared, in his State of the Union Address in January, 2004 to the United States Congress and the

American people, that the United States will never seek what he termed "a permission slip" in order to defend the security of its people. This declaration seems to constitute a stated intent to ignore, or defy, or revoke earlier consent to existing international law whenever such laws are perceived to conflict with the interests or security of this nation, as judged by its elected leadership. This declaration could be taken as a statement of principled disagreement with specific provisions or statutes of the United Nations, but it appears instead to constitute an expression of outright contempt for the institutions of international law themselves, at least as presently constituted.>

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THE U.S. "VIGILANTE" ACTIONS ARE A RESULT OF THE PERCEPTION THAT INTERNATIONAL INSTITUTIONS ARE WEAK AND INEFFECTIVE AT ENFORCING INTERNATIONAL LAW.

Lucas, George, Jr.. "Methodological Anarchy and Vigilante Justice: Arguing about Preventive War" Paper presented at the annual meeting of the International Studies Association, Town & Country Resort and Convention Center, San Diego, California, USA, Mar 22, 2006 <Not Available>. 2009-02-05
<http://www.allacademic.com/meta/p98206_index.html>p. 71 - 72

<A more accurate legal description of America's actions in this instance is not civil disobedience, but vigilantism. The vigilante is one who acts to establish some form of law-like order, either in the outright absence of laws, or when the established structures and institutions of law enforcement appear to be corrupt, ineffectual, or otherwise lacking in the will or the power to enforce the law. Individuals and nations may decide upon this course of action for a number of reasons. Sometimes, of course, they do so simply because (as with a lynch mob, for example) they resent the restraints that law and due process place upon their exercise of passion, hatred, or desire for vengeance. Just as often in the domestic case, and quite frequently in the international case, however, the vigilante takes the law into his own hands when he or she judges that the normal institutions and procedures of the law are inadequate, weak, morally corrupt, or otherwise ineffectual in enforcing justice, providing security, and maintaining the rule of law. This appears to be the crux of the position of the U.S. President and many of his advisers: namely, that the specific provisions, and more importantly, the various institutions of international law themselves, are simply too weak, too morally corrupted by the prevailing selfish interests of individual member states, and otherwise too ineffectual to ensure an authentic and just rule of law in the international arena. Hence, they seem to believe, the United States is perfectly justified in ignoring them.>

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BY ENTERING IN IRAQ, U.S. AND U.K. ACTED AS "WORLD VIGILANTES."
Norton-Taylor, Richard. "Top judge: US and UK Acted as 'Vigilantes' in Iraq Invasion."
November 18, 2008. The Guardian/UK. <http://www.commondreams.org/headline/2008/11/18-4>

<Addressing the British Institute of International and Comparative Law last night, Bingham said: "If I am right that the invasion of Iraq by the US, the UK, and some other states was unauthorised by the security council there was, of course, a serious violation of international law and the rule of law.

"For the effect of acting unilaterally was to undermine the foundation on which the post-1945 consensus had been constructed: the prohibition of force (save in self-defence, or perhaps, to avert an impending humanitarian catastrophe) unless formally authorised by the nations of the world empowered to make collective decisions in the security council..."

The moment a state treated the rules of international law as binding on others but not on itself, the compact on which the law rested was broken, Bingham argued. Quoting a comment made by a leading academic lawyer, he added: "It is, as has been said, 'the difference between the role of world policeman and world vigilante'.">

AT: VJ SPURS SOCIAL MOVEMENTS TO SOLVE INJUSTICE:**LOCALIZED VIGILANTE GROUPS CANNOT BE REGARDED AS A SOCIAL MOVEMENT****William E. Burrows, *Vigilante!*, New York: Harcourt Brace Jovanovich, 1976, pp 6-7.**

<No vigilante episode was ever really part of a movement. It's not just a matter of semantics, either. To me, a movement is a truly sustained social or political action with a commonly agreed upon motive. The antihorsetheif and prohibition movements fall into that category; so does the student movement to end American participation in the war in Vietnam. Even the Ku Klux Klan, which is now well into its second century, could easily be dropped into the hate movement. But no localized group of vigilantes- and they were always local- was a true movement.>

AT: VJ IS BASED ON COMMUNITY NORMS:

THE VIGILANTE REFLECTS MANY OF THE PROBLEMS HE/SHE TRIES TO ADDRESS, ACTING OUTSIDE OF THE COMMUNITY

Slotkin, Richard. *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization, 1800-1890*. 1998: University of Oklahoma Press. p. 135-136

<In all of these cases, vigilantism represents itself as the expression of the will of civilized society as a whole—just as the Indian fighter is taken for the representation of the whole race. But for the vigilante the pretense is thin: in every case, he acts as the agent of only one class or element in his society, asserts his privilege to act and administer violence as if it were mandated by the whole, and even circumvents the will of the majority to achieve his ends. The vigilante identifies his enemy as a tribelike entity within society, devoted to conspiratorial codes of secret purpose and procedure. Yet the vigilante's own procedures are mirror images of those followed by the tribe or dangerous class he attacks. Since that class probably represents the interests and views of some part of the community—however small—there will always be those who will plausibly assert that it is the vigilante movement that is the conspiracy against the whole, and the supporters of vigilantism, who are the tribe within the settlements, the dangerous class.>

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THE “NEW ERA” OF VIGILANTISM IS INDIVIDUAL, RATHER THAN COLLECTIVE.

Schwartz, John, “Ideas & Trends: Frontier Justice; On the Web, Vengeance Is Mine (and Mine),” March 28, 2004, New York Times, <http://query.nytimes.com/gst/fullpage.html?res=9405E2D61030F93BA15750C0A9629C8B63> p. 116-117

<Exclusion of individuals from levers of power traditionally has meant violent backlash. Previous political eras were marked by collective violence seeking access to that which was denied. The tenor of past times was a product of musterings of people with common interests. In a specialized, individualized social setting, common interests are not identified easily, and mustering a collective without a crisis issue is near to impossible. So in a specialized, individualized society there is individualized violence, specialized in its targets. And part of the individual violence is the individual taking matters into his own hands within a defined specialty—ecology, conservation human rights, and so on—in a new era of vigilantism.

AT: VIGILANTISM CAN SOLVE OPPRESSION TOWARDS WOMEN

SEXIST VIGILANTISM TO REINFORCE A STRICT MORAL CODE HURTS WOMEN.

Mondal, Sudipto. "Vigilantism' hits women hard." The Hindu. September 8, 2008. <http://www.hindu.com/2008/09/08/stories/2008090855620600.htm>

<Vigilantism in the district by self-appointed groups keen on enforcing a rigid moral code have left lasting scars on female victims. For sometime now, these groups have been coming down hard on people who interact with people from a different community.

Sugandhi (18), a call centre worker and a victim of one such attack, says, "In five minutes I was turned into a living corpse." As per police records, she was meeting some male friends at a hotel in the heart of the city when

Bajrang Dal activists arrived there with sections of local visual and print media in tow.

"Suddenly, I was surrounded by all these men who abused me while some clicked my photograph. The police just stood there and watched," she said. She has now left home to avoid embarrassment for her parents.>

AT: CYBERVIGILANTISM = GOOD:**“CYBERVIGILANTISM” IS INEFFECTIVE**

Schwartz, John, “Ideas & Trends: Frontier Justice; On the Web, Vengeance Is Mine (and Mine),” March 28, 2004, New York Times,

<http://query.nytimes.com/gst/fullpage.html?res=9405E2D61030F93BA15750C0A9629C8B63>

<That's partly because, just as in the real world, cybervigilantism doesn't always work out for the best. Executives at eBay argue that vigilantes -- well intentioned as they might be -- can wrongly disrupt legitimate deals. Law enforcement officials aren't big fans of the stings, either. Ray Johnson, a deputy investigator with the Internet crime unit for the sheriff's department of Wayne County, which includes Detroit, said, "We thought it was nice that they were putting it out there, and let people know that there is a problem." On the other hand, he said: "They embarrassed these people, but they didn't put them behind bars. When we do a case, we not only embarrass them, we also put them behind bars, or put them in treatment." The vigilante stings actually make prosecution more difficult, he said, since they put people on notice that the police might investigate them. Private crime fighters also don't follow the rules the police use to avoid issues of legal entrapment. If Mr. Johnson tried to use transcripts of the chat room come-ons in a criminal proceeding, he said, "they'd throw it right out in a heartbeat.">

Victory Briefs: www.victorybriefs.com

VIGILANTE INTERNET SCAM-BAITING IS RACIST.

Tuovinen, L. and J. Roning. "Baits and beatings: vigilante justice in virtual communities." 2007: Intelligent Systems Group, Department of Electrical and Information Engineering, University of Oulu, Finland.

<However, engaging in trophy hunting without the backing of proper authority adds an element of vigilantism that merits closer examination. An advocate of baiting writing under the pseudonym 'The Cheshire Cat' (2005), while addressing such concerns as whether scamming is even harmful and whether scam baiting is racist (given that the people portrayed in baiters' trophy galleries seem to be almost invariably African), does not give proper treatment to this aspect of what has been called the Internet's first blood sport (Cain, 2004).>