

IS IT MORE IMPORTANT TO PROTECT RIGHTS OR AVERT WAR? by David M. Cheshier

This year's policy topic often produces risk assessments where some chance of averting war (as with the typical political power disadvantage impact) must be compared to the benefits of protecting a fundamental right, like privacy itself. Because these values are essentially incommensurable, which is to say they cannot be easily compared since they share no common fundamental basis of comparison, debates like this often seem arbitrarily decided. Sometimes judges end up preferring the impact most eloquently defended in the last rebuttals, as in the case of the critic who might agree that the nation's military preparedness simply matters more than the privacy rights of enlisted gay or lesbian service personnel, based on the rhetorical power of the final hegemony impact card. Or a judge might prefer the sheer emotional power of a rights claim, as might happen in a debate where a critic decides that the nuclear risks following from right-wing terrorist backlash simply must not be endorsed as the basis for refusing to expand the civil rights of racially profiled African Americans. More often the final impact cards are allowed to stand (and are thus compared) on their own terms, as if either side were winning them in totality, a result which can produce a post-round rationale sounding something like: "I just think a total nuclear war is the worst risk imaginable, and must be avoided at all costs."

Too often the very difficult task of weighing incommensurable values is sidestepped by even talented debaters, an outcome which only heightens the risk of seemingly arbitrary judge determinations. Some debaters practice the tactics of subterfuge: they hide a decision rule somewhere in the first affirmative, and, hoping the negative will screw it up by failing to respond, then scream on and on about the "dropped (and now absolute) decision rule." And while some develop thoughtful and elaborate philosophical defenses for their position, many others revert to the rhetoric of ridicule, hoping that by simply making fun of grandiose nuclear or rights claims they will succeed in persuading judges to drop them from consideration.

Another popular strategy is simply to assert that one kind of impact subsumes or "captures" the other. Thus 2NC's might argue that "war outweighs the case -- after all, what would the value of autonomy be once we're either dead or fatally irradiated?" Or a 2AC might argue that without privacy (or some other foundational right), life is simply not worth living. While I do not dismiss the potential efficacy of such a strategy (in fact I recommend it in certain cases, detailed later in this essay), most judges simply won't let such assertions carry round-determining power.

Of course these difficulties are not unique to policy debate. Our public life and discussions are often controlled by apparently thoughtlessly made risk comparisons. After one of the presidential debates, I was astonished to hear a Bush supporter argue that, although she thought Gore's environmentalism was necessary to avert global warming "catastrophe" (her word), she intended to vote for the Texas governor anyhow, since she feared that a President Gore would take away her shotgun, making it harder for her to defend the American way of life against some future (minuscule risk of a?) potential dictatorship or military coup attempt. But all of us thoughtlessly endorse risk comparisons unlikely to survive even a moment's scrutiny, falling back either on hyperbole ("they'll have to pry it from my cold, dead hands!") or overly simple "rules of thumb" (as contained, for example, in the old rallying cry of nuclear disarmament advocates, "better Red than dead!")

The difficulty in comparing incommensurable value claims has long occupied political and moral philosophers (not to mention risk analysts), and I will not condense that expanding literature here. Instead, I propose to review some of the most commonly argued (and evidenced) impact assessment evidence, with some final recommendations for how debaters might improve their assessment of uncommon impacts. Although evidence on these issues is often read by sources as diverse as the philosopher of science Nicholas Rescher, political philosopher George Kateb, and existentialist theorists Haim and Rivca Gordon

(the "Gordon and Gordon" evidence), I will focus here on the contrary positions taken by Jonathan Schell and Daniel Callahan. Understanding their well supported claims (each featured prominently in a major book-length study), on their own terms and without going into the broader literatures each references, may help debaters improve their argumentative sophistication regarding difficult to compare impact claims.

Why Averting Nuclear War Risk Matters Most

Among the most famous arguments made for preferencing nuclear risks over all else was Jonathan Schell's influential book, *The Fate of the Earth* (Alfred Knopf, 1982). An extension of an essay written for the *New Yorker*, Schell's position appeared at a moment of great national drama for American and European decisionmakers. In the United States, debate raged over the proposal to implement a nuclear freeze - the idea was that whether unilateral disarmament was justified or not, a sane alternative would be to simply freeze weapons production where it stood. Ronald Reagan, then President, insisted that a freeze would lock in American inferiority relative to the military strength of the Soviet Union, and that a freeze would jeopardize America's bargaining position in arms control talks. In such a context of heightened attention, Jonathan Schell argued that nuclear risks had been improperly understood.

The most common use of Schell is to read evidence from the book which stipulates the risk of nuclear annihilation as infinite. "A full-scale nuclear holocaust is more than the sum of its local parts; it is also a powerful direct blow to the ecosphere. In that sense, a holocaust is to the earth as a single bomb is to a city," says Schell (19). A nuclear war, should it occur, is in Schell's account an epochally singular event. By destroying all human life (either through direct detonation, nuclear fallout, or subsequent genetic damage), the calculation of lives lost is effectively infinite, since not only this generation but every possible future generation disappears - this Schell refers to as the "second death."

Here is how Schell puts it:

...it is clear that at present, with some twenty thousand megatons of nuclear explosive power in existence, and with more being added every day, we have entered into the zone of uncertainty, which is to say the zone of risk of extinction. But the mere risk of extinction has a significance that is categorically different from, and immeasurably greater than that of any other risk, and as we make our decisions we have to take that significance into account. Up to now, every risk has been contained within the frame of life; extinction would shatter the frame. It represents not the defeat of some purpose but an abyss in which all human purposes would be drowned for all time. We have no right to place the possibility of this limitless, eternal defeat on the same footing as risks that we run in the ordinary conduct of our affairs in our particular transient moment of human history. To employ a mathematical analogy, we can say that although the risk of extinction may be fractional, the stake is, humanly speaking, infinite, and a fraction of infinity is still infinity. In other words, once we learn that a holocaust might lead to extinction we have no right to gamble, because if we lose, the game will be over, and neither we nor anyone else will ever get another chance. Therefore, although scientifically speaking, there is all the difference in the world between the mere possibility that a holocaust will bring about extinction and the certainty of it, morally they are the same, and we have no choice but to address the issue of nuclear weapons as though we knew for a certainty that their use would put an end to our species. (95)

These are powerful words, with an obvious utility in debates where nuclear risks are being assessed. Of course one must be careful not to misuse Schell's argument. He cannot be saying that any risk a policy decision might culminate in eventual nuclear usage has to be weighted as a 100% certain extinction risk. Such a claim is on the face of it unsustainable since any and every conceivable action might entail an infinitesimally small heightening of nuclear risk. To treat Schell as implying this would produce genuine decisional paralysis ("if I put my left shoe on first, then there's a 0.000000.1% chance of nuclear war, which is infinite; but if I put my right shoe on first..."). Schell implicitly recognizes this by acknowledging that from his argument "it does not follow that any action is permitted as long as it serves the end of preventing extinction" (130). And in a literal mathematical sense Schell's formulation seems to provide little guidance when it comes to comparing relative nuclear risks (since it implies that a 1% chance of nuclear war should count as infinitely large as a 99% chance,

when surely we would prefer the former to the latter).

The calculation does have direct relevance to debates where rights are counterposed to nuclear risks, and Schell devotes a section of his essay to thinking through the ethical issues arising from his position. He spends some time refuting, for example, the argument of Karl Jaspers that because there are some principles and circumstances warranting self-sacrifice ("some things worth dying for"), total self-destruction is not necessarily implausible or unreasonable (with Jaspers we have an eloquent articulation of what was once called the "better dead than Red" argument). Schell finds this point of view unsustainable.

But Schell does not reject all ethical considerations, nor does he subordinate everything to survival. Rather, he defends a more nuanced ethical position of relevance to those defending rights against war. Conceding that there is "nothing in the teachings of either Socrates or Christ that could justify the extinction of mankind," he also adds that "neither is there anything that would justify the commission of crimes in order to prevent extinction" (134). And, by way of an analogy to the death camps of World War II, Schell makes clear that even a preeminent concern with survival does not "take precedence over the obligation to treat others decently" (136).

Yet it remains the case that these can be difficult distinctions to keep clear in the heat of a fast-paced debate. Thus the Schell evidence has now been read for almost twenty years to make clear the logic which requires counting nuclear risks as larger than any competing good, life or rights.

Why Protecting Rights Matters Most

Among the arguments commonly advanced to heighten the relative weighting of rights over war is the one contained in Daniel Callahan's often-cited *The Tyranny of Survival and Other Pathologies of Civilized Life* (Macmillan, 1973). Callahan, who remains one of the most thoughtful commentators on ethical issues, centered his argument on the triple threats of unrestrained individualism, technology, and "survivalism." The essay does not argue against these forces in all their potential manifestations, but their combination in contemporary culture can, he warns, produce dangerous hubris. As he puts it in the preface: "Put individualism, technology and an obsession with survival together - that is when the whole house of cards will burn

down" (xiv). Using a series of case studies, centered on such topics as population control and genetic engineering, Callahan makes his case that some reasonable balance needs to be struck, given the pervasiveness of technology in our world, between the imperatives of individualism and survivalism which in many respects Callahan considers individualism's opposite).

Most of the Callahan evidence read in debates comes from the fourth chapter of *Survival*. There, Callahan lays out in more detail his concern that today the logics of individualism (that is, the idea that I should be able to have anything I want) and survivalism (the idea that rampant individualism threatens the whole world) "are being pushed to a *reductio ad absurdum*" (86). This has happened because of previously unimaginable technological changes. The nuclear bomb, for example, forces all of us to consider the potentially catastrophic consequences of individual prejudices gone astray. And overpopulation, which Callahan judges a consequence of technological innovation, poses the problem even more starkly, since the freedom to procreate is both a fundamental individual choice and, taken to excess, a phenomenon threatening planetary survival. "A concern for survival - global and national - has overshadowed the myriad other arguments for population limitation... The notion of extinction, utter extinction, is the most unbearable thought of all."

The danger, in Callahan's thinking, is especially acute since as humans we want to have it both ways. We desperately want to survive, as he puts it, but we are not content to settle for *mere* survival. We understand in the abstract the threats posed by problems like nuclear proliferation, but still assign them a low priority in our collective decisionmaking. But these paradoxes only worsen our plight, creating an opening for the dictators in our midst to step forward, leaders all too willing to use the pretext of mortal threats to completely rob us of our liberties. This is the tyranny of survival:

In the name of survival, all manner of social and political evils have been committed against the rights of individuals, including the right to life. The purported threat of Communist domination has for over two decades fueled the drive for militarists for ever-larger defense budgets, no matter what the cost to other social needs. During World War II, native Japanese-Americans were herded, without due process of law, into detention camps. The policy was later upheld by the Supreme Court in *Korematsu v.*

United States (1944) in the general context that a threat to national security can justify acts otherwise blatantly unjustifiable. The survival of the Aryan race was one of the official legitimations of Nazism. (91).

And, exploiting our understandable interest in survival, these historical instances are likely to recur:

There seems to be no imaginable evil which some group is not willing to inflict on another for the sake of survival, no rights, liberties or dignities which it is not ready to suppress... The potential tyranny of survival as a value is that it is capable, if not treated sanely, of wiping out all other values. Survival can become an obsession and a disease, provoking a destructive singlemindedness that will stop at nothing. (92-93).

The utility of this kind of evidence is only obvious when one recognizes that debate appeals for the judge to act based on threats to survival enact precisely this poisonous logic. That is, when someone argues that the risk of a ballistic-missile-deployment nuclear war exceeds the benefits of privacy protection, they may be confirming Callahan's worst fear: that the rabid and overheated rhetorics of survivalism end up not only failing to protect rights, but finally produce the end of survival itself.

But debaters who wish to either defend or respond to Callahan's argument should keep in mind several facts:

First, it's not clear that the rhetorical appeals typical of competitive policy debate really implicate the extremism Callahan is warning against. Short of the most severe potential 2NR claims, such as the argument that *any* risk of war outweighs rights violations, the mere mention of offsetting war risks does not inevitably trigger Callahan's warning.

To see why this is so (after all, some might see a direct connection between the typical impact assessments of the 2NR and Callahan's position), we must recall that Callahan is not urging us to wholly ignore threats to survival. Instead,

...the problem is to find a way of living with and profiting from technology, and of controlling population growth, size and distribution which is as morally viable as it is pragmatically effective. A balance will have to be devised, of the most delicate kind. A number of steps are necessary, the first of which is to analyze the various types of supposed threats to survival. At the very least, we need to know which are real and which are imaginary, which are of the essence and which are fantasies. (93-94)

But of course this is to say nothing more than that we must weigh competing interests, and when the negative poses an

objection to privacy policy arguably all they are doing is introducing an issue to be weighed.

Now Callahan does assuredly believe that survivalist language is too easily thrown around, and he expresses skepticism regarding totalizing nuclear war claims. As he puts it, "the spectre of total human extinction is a chimera, providing a poor base upon which to build a concern for the necessity to control technology" (95). And this fact can obviously serve as the basis of an affirmative claim that extreme impact claims are nothing more than bombast, hollow threats only capable of rationalizing tyranny. But even here Callahan leaves open the possibility of worthwhile discussion over survival risks. "These remarks," he writes, "are not means to dismiss survival as a concern. If the concept is understood in a wider, nonliteral sense, it is serviceable and important. Let me stipulate that sense as the continuation of the human species at a level of health and subsistence which makes possible the development of culture and individual self-fulfillment" (95).

Second, despite the obvious eloquence of Callahan's argument, are his claims finally more sophisticated than the contrary argument that "no one would have rights in an irradiated world"? Perhaps not. That is, the power of Callahan's position is simply that it provides another instance of what I shortly discuss as "trumping claims," arguments that bridge the incommensurable distance between starkly alternative value systems (rights/life) by translating one issue into the language of the other. Callahan's point (as used in most debates) is that objecting to rights on survivalism grounds ends up threatening all rights. I mention this fact only so students will not be needlessly diverted by the rhetorical power of Callahan's position; it is perfectly reasonable to reply to Callahan by mentioning that *not* considering survival issues ends up threatening all rights too (since rights would assuredly be among the first victims of total nuclear war).

Suggestions for Improving Your Own Impact Assessments

Permit me to close by offering five quick recommendations about handling the inevitably difficult impact debates over incommensurable values. First, where possible assess your impact in ways that trump decision rules to the contrary. If decision rule evidence is read proving that rights have to take precedence over all other com-

peting utility claims, then make arguments for why devastating utilitarian consequences will also end up subverting rights as well. It is admittedly a blunt and usually unpersuasive claim when debaters say things like, "in an irradiated world no one will care about their privacy." But more subtle uses of these lines of attack can also prove decisive.

Second, it is absolutely essential that debaters invest the time necessary to explore these intricate claims. Too often debates are characterized by quick cross-examination exchanges where some effort is made to reveal the absurdity of the evidenced decision rule. But as often these probes, and the concessions they reveal, fail to find their way back into the structured responses. Or, worse yet, decision rules are totally dropped. Time must be spent to undercut absolute rights or life claims, even if necessary in time constrained speeches like the 1AR.

Third, debaters must work to avoid permitting the debate to come down to totalizing claims. Neither Schell and Callahan, as I've tried to illustrate, can be reduced to the simplistic tags often attributed to their work. But to make inroads against the most widely read evidence from these and other sources requires a particular understanding of their overall positions. If such inroads are not made, arguers can rest assured their opponent's late rebuttals will convert nuance into absolutism, often to the detriment of intellectual integrity.

Fourth, I recommend that debaters get in the habit of both offering and efficiently answering the major available decision rules. It is productive, in my view, to practice by participating in small-scale mini-debates on these issues, since it takes practice to economically defend and attack these persuasive positions. Ideally, debaters should rehearse on these positions (and I mean here to include other sources beyond Schell and Callahan, including Rescher, Gordon & Gordon, and Kateb) to the point of complete efficiency and eloquence, so that when the quick card is read, it will not take long to respond effectively.

Finally, it is absolutely essential that students familiarize themselves with the usual impact assessment arguments, and the literatures they are reacting to an anticipating. One cannot adequately respond to the Gordon and Gordon evidence (from their book *Sartre and Evil*) without some understanding of the existential tradition which grounds their work. Nor can one understand

Rescher's final position on the assessment of low-probability catastrophic risks without reading both his book (called *Risk*) and the broader literature on risk assessment.

Of course the arguments are complex. But they are also vitally important in a world which too often evades serious discussion about the serious final consequences of our collective actions. And so whether debaters will ever feel they have definitively resolved these long-standing questions or not, the journey will prove worthwhile even if the destination remains obscured from view.

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