

"In Defense of the National Judges"

I would like to begin by mentioning that I have the utmost respect for Greg Rufo as a judge and coach, having been judged by him myself just a few years ago. I would also like to note that I found most of his letter ("A Letter to my Brethren", published in the Vox Populi section of the November 1993 Ros-trum, pages 14 - 15) entirely agreeable, but I felt obligated to respond to his attack on the liberal view of inherency obligations prominent among judges at the national level.

Mr. Rufo asserts that "some of the so called 'National' judges refuse to consider inherency as a valid argument." Initially, I object to this claim, because I don't know of any national judge who would not vote against an affirmative if the negative had evidence from today's newspaper stating that the affirmative proposal had been enacted. This, to me, is the meaning of inherency, and also, I believe, the opinion of the majority of "national" judges. In fact, I believe that it is a difference in interpretation of inherency, rather than a uniform rejection of the very concept of inherency, which is behind this controversy.

So what we have is a conflict between a minimal interpretation of inherency, which holds that as long as the affirmative plan changes something in the status quo, they have fulfilled their inherency obligations, and a more conservative school of thought which requires an affirmative to defend not only the consequences of the plan, but the reasons for the problem's existence. The prior view is probably most consistent with what Mr. Rufo called a "policy-maker" paradigm, which I am led to believe means

that the judge decides the debate as if she were a government official weighing the relative merits of the status quo and the plan. I think, in fact, that all rounds are decided in terms of this sort of paradigm, since the resolution which provides the jurisdiction for the round invariably has a United States government agency as the agent of action. (Note - Mr. Rufo provides an excellent defense of the resolution as jurisdiction in his letter, which I will not repeat here.) One thing which government agents do not do, however, is reject plans simply because the reasons why they have not yet been adopted are not clear. This is the sort of inherency which I must object to.

In fairness, the example which Mr. Rufo uses is not so blatantly nonsensical as this one. He recalls a case which claimed that the presence of MNC's (Multi-National Corporations) in LDC's (Less Developed Countries) was causing pollution because it would be too expensive for these corporations to clean up their own messes. The negative claimed that the cost of complying with regulations would cripple the MNC's, and the affirmative responded by claiming that the regulations would save the MNC's money in the long run. The 2NR then argued that there was no inherency, presumably since there was no profit motive to pollute if the MNC's would save money under the affirmative. From these arguments, Mr. Rufo reasoned that the affirmative had lost the round because their case was not inherent - in other words, if what the affirmative were saying were true, then the status quo would already be doing the affirmative. But what if the affirmative had evidence that MNC's were causing pollution, and that they would comply with regulations if imposed, yet had no evidence which de-

scribed the motives behind the MNC's actions? In this case, I think that there is a pretty clear problem inherent to the status quo, and the affirmative could solve for the problem, so I would vote affirmative, even though there was not even a hint of discussion of motives. Or, even more problematically for the conservative inherency analysis, suppose the affirmative claimed that someone had been doing the pollution, and no one knows who, and that there was some chemical capable of remedying the negative effects of this pollution, and they had EVIDENCE stating that nobody really understands why the United States has not cleaned up the pollution. Should the affirmative lose in this situation?

I think that these examples uncover two serious flaws in the conservative interpretation of inherency. The first is that it does not allow us to consider issues which we really may not know the origin of, even though a clear solution may be available. I think that there are plenty of examples of problems without a clear and distinguishable motive, like the national debt. Who wants it? Everyone agrees that we should get rid of it, so there should be no problem we should just be dealing with it in the status quo. But if the affirmative claims that enacting their health plan would save so much money that the national debt would be reduced to manageable levels, why would they have to prove where that debt came from or why nobody has reduced it? Isn't it simply possible that the plan hasn't really been thought of before? Now, a health care plan which reduces the deficit obviously is not a policy which the congress has never considered, but I believe that several such policies may exist, such as the development of nanotechnology. To my knowledge, no member of con-

gress has ever proposed such a policy which developed this new area of scientific research would reap tremendous benefits. So if the affirmative comes up with a good idea which no one in our government has considered before, even though there is no indication that such a policy might be adopted anytime soon, should they lose because they haven't proven the existence of a structural barrier to the implementation of their plan? I don't think so.

The other problem I have with the traditional view of inherency is that it forces the affirmative to indict their own case. That is, if there is some "barrier" to adopting the affirmative in the status quo, then that means that the affirmative must present reasons, and good ones, why their plan isn't being done. Unless the affirmative wants to claim that the entire U. S. congress is crazy or stupid (an argument not likely to fly too well in front of a "traditional" judge), then they must read a disadvantage to their plan in the 1AC in order to fulfill this burden. I think that this not only is counter intuitive, but that it gives far too much ground to the negative. What negative team would be likely to go out and research a case if every affirmative ran a disadvantage or solvency takeout in their first affirmative?

On the other hand, the interpretation which I am advocating would allow an affirmative simply to prove the plan represents a departure from status quo policy. It would be the negative's burden, then, to prove that the status quo had good reasons not to change. In the example which Mr. Rufo refers to, if the negative had done their homework, then they would have had the evidence which said that profit motive isn't what's keeping the MNC's from

being constrained by environmental regulations. This argument would then stand on its own merits, not propped up by some magical "inherency" voting issue. Of course, on its own it doesn't really prove anything, but coupled with evidence which describes the real motives behind the corporations pollution, we might have a real case debate on our hands. If the purpose of inherency is to prove that the harm in the status quo would be uniquely remedied by the affirmative, isn't this just the sum of the harm and solvency obligations of the affirmative? In other words, except in cases where the plan is being done now, inherency arguments carry no more weight because they have been labelled "inherency" - they must either prove that there is no reason to vote affirmative because the harm is being solved in the status quo (assuming there is no other significant advantage, such as a turned disadvantage which outweigh the case), because the affirmative would not solve the problem, or because the affirmative would incur disadvantages which outweigh the case.

There is one final possible justification of inherency which Mr. Rufo only possibly implies, but which I imagine is a common argument for this strict interpretation of the inherency voting issue. That is, it's the way we have always judged debate, or that it's a rule of the game, like speech times. Thankfully, there is no such debate rulebook, and everything except for procedural issues (such as who decides who won the round and whether we should allow teams of 3) is up for debate. In fact, the recent change in the time of rebuttals proves that nothing in debate is constant, and this flexibility allows us to move towards what I think is a more

enlightened level of argumentation, where we don't waste our time following stock argument structures so much that we forget about the real issues, like "is the affirmative plan a good idea?" There is a growing consensus for this view of inherency, and the old view is fast heading for obsolescence. Stock issues theory is helpful in introducing debate to a student, but it is simply not the way debate is done anymore - nobody thinks of the status quo as the defendant and the affirmative as the prosecution, but rather, we work within a more policy-oriented model which does not require a "prima facie case" with set standards for adjudication, such as inherency. I think that our real obligation as instructors is to be able to justify what we teach, even if it means we must break with tradition to do so, and I think the time has come to begin teaching young debaters what inherency is like in the real world.

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consistent. For N.F.L. Districts this means that each committee must select people to run the room who know the rules and will administer them in an impartial, consistent manner that follows the letter of our rule book.

Offering such solutions is easy. but, like many affirmative plans and extemp speech solutions the real test is application. If we don't work harder to improve the quality of extemp judging we risk turning it into another biased, sophistic exercise that demeans the intent of our association.

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