Judge's Decisions

Kyle Warneck - Claremont Colleges
(Opposition)

Congratulations to both of the teams involved. I thought both teams took this topic in an interesting and important direction. The intelligence and creativity of the debaters in this round reflects the best elements of parliamentary debate.

To me it seems clear that the counter plan holds some advantage over the plan. There is no question it solves the entirety of the case. There is also some risk that the federal government will define art in a way that is inappropriate in some Native American cultures. The example of the Elephant Dung Virgin Mary is fairly compelling. At the least, I agree with the LOR argument that this mis-definition is more likely in plan than counter.

The government concedes that a mis-definition of art will further the cultural genocide of Native Americans and turn case.

The government also concedes that the CP treats Native American cultures as dynamic instead of static, although the impact of that isn't clear to me. I suppose it relates to the other cultural genocide argument. These arguments outweigh the "slap in the face" argument the government makes which the opposition points out, doesn't seem to have an impact.

This leaves the government with only three offensive arguments, all theoretical. The easiest to resolve this is the so-called "performative contradiction." I can't see an impact linking to their own disad. The CP still comparatively links less. The opp makes two severance arguments. One about durability, (that there must be an embedded definition of art in the plan, which is absent in the CP) and an argument that the permutation severs out of the unilateral action of the plan. The second argument is clearly in the member of opposition's speech and while it's not a great argument, it's just not answered. I don't have to resolve the other severance argument. Opp wins perm is severance. A few P.O.I's in the PMC would have made this a lot easier.

The final argument is this vagueness argument. I think about this for a while, but end up not voting here for two reasons. The opp spends a lot of time in their speech answering questions about what it does. The two opp debaters make different predictions of the result, but are consistent on the mechanism. I'm never sure if the link to this argument is having a vague mechanism or a vague result. I also don't understand the internal link between putting the gov at a strategic disadvantage and why Berkeley should lose. I have a fairly high threshold here and I think it's the gov's burden to meet it. They just don't fill the holes.

So, the CP is competitive and theoretically legitimate. It solves the case and avoids a genocidal definition of art. The opp wins. Although the opp structure is a bit awkward at first, in the end all the arguments are there.

Kristopher Stroup - Truman State
(Government)

Clearly, the first issue is where I compare plan and CP or plan and status quo. This comparison comes down to plan text. As I understand it out of the PMC, PMR is correct that no definition of 'art' is present in plan text, nor does text require Indians to use the money. Although no definition is presented, I am convinced the MO is correct in that some definition will be put in place by congress, that is probably essentializing, but Indians can reject the money. I wish somebody had hashed this out more thoroughly for me. As is, I think it probably constrains some access to net benefits, but fails to independently de-justify CP comparison.

The other theoretical objection is this vagueness/shift. I buy the link, and it surely hoses the MG responses, but nobody tells me how I weigh this. So... I feel sorry for the MG. That's about the extent of impact the in-round claims warrant. Would have voted here if it was more developed.

This leaves me with the net benefits debate. There is definitely a conceded impact to not treating Indians as a static entity, but the partial weight of the perm tends to mitigate the truth of the link story. PMR answers that Indians could say no, and therefore not static takes some of the bite out of the scenario. MO does seriously undercover the performative contradiction argument, and I buy the extension of the impacts to perf. con, that this tends to mask how much of the time we really treat Indians as a static culture.

I give aff a marginal impact in the net ben debate on the CP flow. This takes me to the disad regardless of the args on internal mechanics, PMR is persuasive that the terminal impacts of this are under covered in the MO/LOR and only gov is giving me clear impact comparison. Most of this assumes plan vs. sq, but the mitigation of the scenario via the lack of mechanics for how/what the government would be inclined to restrict that relates to Native art denies access to the biggest impact claimed in the LOR. I buy the hyper-critical art may be restricted, but nobody does enough to weigh this out for me to get much here.

Overall, impact comparison is pretty lacking from the LOR, and I'm just not willing to do the work that would be required to extend these impacts for them. Based on the impacts of the masking of the perf. con. and the relative lack of impacted offense from the neg, I cast my vote for the affirmative.

Alan Tauber - University of South Carolina
(Government)

Fantastic round. Both sides do an excellent job. I think this round comes down pretty clearly to the counterplan. If I believe it's net beneficial to consult, I vote there. If not, the government wins.

First off, as to CP text, I only have the CP as consulting as to plank one. I'm really not sure if the other planks of CP are included or not.

Opp is right, that gov concedes the unique net benefit to the counterplan. I think it is important to treat Native Americans as a dynamic entity. But unfortunately, I never get to this part of the debate.

While I do think opp is winning a lot on the counterplan, there is no answer to the vagueness attack on the bottom. Rachel explains why opp must specify what the consult looks like in the L.O. Failure to do so skews the gov's strategy and time.

Furthermore, the performative contradiction/masking argument is fairly persuasive. Counterplan advocacy masks the other forms of domination that is occurring. I think this is probably true with plan, but this answer isn't made.

I also don't see an answer to Rachel's "slap in the face" argument, which Josh extends in the PMR. As to the disadvantage, none of the impacts are extended, and some art may criticize the government.

Overall, some key drops lead me to vote for the government team from Puget Sound.

Ric Schafer - Texas Tech University
(Government)

First I want to congratulate the four of you for not only this performance, but the entire season. I've had the chance to judge Berkeley many times and have enjoyed knowing them through the years. I first saw Puget Sound last weekend, but I have tremendous respect for them based on the four times I've seen them. My team has talked about you four all year, and I admit, borrowed an argument or two. Congrats on an outstanding final round. You all four really deserve this. I write that often, but never meant it quite like this time. Congrats.

I know that there is a fear of having a tech heavy debate in finals. I think this round could have used more of that on the perm level. I'm not really understanding why gov can't perm. All I have from the LO shell is that it should be [...] because it allows for a clear debate. I don't have any explanation of what that means. Opp tells me that groups have a right to say no, and that is what creates competition. I don't have any real explanation as to why they would say no. In fact, gov tells me it would be a slap in the face to ask them if they want money.

I also don't have the other planks on my flow. I may have missed it like gov disadvantages, but that gives me an advantage to gov. I have impacts that are from both teams ignored. Opp tells me that we give them a "live voice" and they are then involved in policy making. Poor analysis, but no response.

Gov does a better job on weighing impacts in the PMC. I vote on the perm- but this would have helped if I didn't give them the perm.

Again- Outstanding work. I really had a difficult time with this decision. This is my last round as a coach, so I'm torn. I wish it was an easier decision to make, but I'm, glad I ended my forensics career with such an amazing round. Good work.

Matthew Harms - Truman State
(Government)

Congratulations to both teams on an excellent final round.

I'm voting for the government team first on the vagueness position. I agree with the PMR that the consultation / "what amount of money would be turned down" change from Darryl's speech to Mike's speech. So I'm pulling the immediate strategic disadvantage voter and evaluating the abuse argument before even getting to the case debate. CP:

1. I'd vote gov on the perm debate as well. Plan never specifies what "art" ever is, and in fact, leaves the determination up to each portion of Indian Country. Additionally, the case allows the political stance of "no, we don't want the money," (which the CP claims, too) while not being patronizing by saying, "are you sure you want the money?" (Which the CP does do).
2. I'm also buying the gov team's claims of masking from consultation only on the one issue by the CP. From a net-beneficial level, this immediately triggers the genocide/cultural extinction impacts made on advantage three.
3. I'm not giving the opposition any benefit to their third net benefit on making Indian Country an active voice in the discussions, because not only does the patronizing argument answer this, but the case gives them a similar voice by only earmarking funds, allowing each section of Indian Country to do as they wish, while still being able to stick it to the USFG.

DA/Government Control:

1. I agree with the PMR that there is not a single example of what would be limited, nor is there ever some single scale created by the USFG to evaluate art. Plus, the case allows the recipients of money to criticize the government too.

Case/ Blood Quantum:

1. Case/CP both claim and are at least a step in the right direction. This applies largely to the rest of the case debate as well

Finally, the PMR impact/advantage evaluation shows why marginalization and genocide should be held above college educations.

Excellent round, I'm voting for gov on the vagueness and perm debate.

Patty Steck - Century College
(Government)

First, I'd like to thank both teams for an amazing debate. Both teams are worthy of winning the big trophy.

I like the case- having spent much of my life near "Indian Country," I see the need for actual reform of Native American cultural education.

The opp makes a good point about historical problems when the government gets involved in what is or is not considered art worthy of funding. For me, this is the crux of the debate.

In the end, it seems that the government avoids this with the block grants portion of plan. At the point that gov plan provides the money to Natives to use or not, the DA of government control does not seem to apply. Without the link to the DA, the potential to set a blood quantum precedent, recognize women's art and increase art education seems likely.

I accept the MO/PMR analysis that the "consult" is an insult at best- and as a result, vote gov.

Kyle Hunsicker - Lewis & Clark
(Government)

To all of you: Congratulations on your years of success. It's been an absolute pleasure to participate in this activity and be a member of the community with individuals so talented, creative and fun as yourselves. It's a really cool thing to also have had the opportunity to see you change and grow as debaters and academics the past few years. I hope to see you all in the future.

My RFD: Neither of the disadvantages have much time spent on the impacts and aren't strong, offensive positions from the LOC. The private school DA leaves the round after the MG and the govt, control DA fails to turn the case advantages because the case never places any definition of what art is or of what quality it may need to be. Opp only asserts that the government will decide what that is, yet gives no scenario or way to measure the likelihood of that scenario/hypothetical.

Therefore, the opp has got to win the counterplan in order to win the round. With or without the perm, the government team is winning the round here. Because the government team does not force spending, there is essentially no reason to consult, gov makes this answer twice and while the CP is a bit vague, it's only as vague as the plan text plank that it consults about. Is the vagueness on how the talks occur, what the talks look like/deal with? To vote on vagueness, the gov needs to do a lot more work. So since the plan gets all the benefits it sets out in the PMC, versus the treatment of voice w/ a live and dynamic quality; it's the government team which prevails.

Thanks again for being the people you are! (Awesome debaters)

Torrey Shineman - Reed College
(Government)

I think the permutation is clearly possible for the definition of what qualifies as "NA art" and only comes into question regarding the unconditionality of funding. Josh (PM) emphasizes the plan text to "earmark" the money in plank 1, which means they don't have to take it. Mike (MO) mentions that after consult, the amount might change, but gov team says if NAs say no to $100 million, then US would have to just say no (in CP). I don't think the MO speech hits this point specifically, but I do think the response that amount can change is enough to give at least the possibility of competition between them.

On vagueness, I do think opp shifts around a bit here. Darryl (LO) could have taken time to talk about what might happen or at least to define the realm of possible solutions the CP could result in.

Plan is clearly winning net benefits over the disadvantages, as MO never responds to requests for impacts. I do see a performative contradiction between DA two (government control over definition of "art") and CP encompassing plank two of plan to still fund art in schools. I do hear LO say plank two is part of CP, although he rushed through that point and I remember wondering if others even heard it. Plank two didn't seem to jive with opp advocacy and I think opp would have been stronger with the consult on plank one CP alone with the DA debate. DA two is very compelling at first but becomes linked to CP equally and opp blocks drops it entirely. Too bad!

Seeing as opp does run DA two, I do think they bite the performative contradiction argument. If you know it is bad, why do it- this also links directly into masking. I think gov makes a compelling case that opp advocacy is inconsistent and masks issue- opp never argues gov's masks more. This combined with the fact opp never responded to the "slap in the face" argument from MG, is where I vote.

David Dirgo - Creighton University
(Opposition)

Initially, let me say that both teams should be congratulated for the impressive accomplishment of reaching the final round. The fact that my responsibility requires me to be critical should not mask the esteem in which I hold all of you.

I'll begin my analysis with the argument that gave me the most trouble, which was the permutation. The permutation, loosely restated, was that the plan would earmark money, but not define "art," or force tribes to spend the money. This was a close call, and a problem for me. But here's how I see it: When I drop my son off at school in the morning, I might give him $5 and tell him to buy lunch in the cafeteria. OR, I could offer him $5 because I think he needs it to get lunch, but ask him if he really does need it. Or if he needs more. Or if he wants to spend it in another way. I'm not going to follow him into the school, so there would be no effective enforcement of a "cafeteria lunch" earmark. But failing to enforce a directive isn't the same thing as consulting the actor about what the directive ought to be in the first place. This is, in the end, a judgment call, but my conclusion is that the counterplan is competitive enough to be legitimate counter-advocacy.

After that, I look to the vagueness issue. This is a good place to note that it is far from irrelevant to my decision that the opposition's arguments were consistently misunderstood or misconstrued by the government, and in each instance, I recalled (and my flow reflected) the government's version of what was said. When things get confused, it seems to me like the benefit of the doubt should go to the team not responsible for the confusion. I'm not accusing the government of deliberately misstating things, but I can't ignore the way I heard the arguments made. That having been said, back to vagueness. I think the point of information from Darryl was sufficiently clear on the meaning of consultation, and although Rachel complained, I'm not giving her a voting issue on that complaint. The opposition did not effectively explain to me what I needed to know about the counterplan, but didn't, because of the supposed vagueness. I felt like I had what I needed to evaluate whether the counterplan was net beneficial. The bottom line here is that I understood the counterplan, and that has to be good enough, right?

Net benefits are a little easier, since my flow has the opposition's third net benefit dropped, and I understood how it was uniquely connected to the counterplan. The opposition made a pretty good argument for the unique advantage of treating Natives as partners with a live voice. I also clearly have on my flow that the counterplan includes planks two and three of the plan, so I did hear that. The failure to consult Natives on those planks resulted in really confusing arguments, but my problem there is that Josh's sovereignty responses really didn't address the opposition's argument as I understood it. I heard the opposition to simply argue that because Natives aren't sovereign outside reservations, we don't need to consult Natives on

money not spent in Native schools—not, as Josh contends, that Natives aren't sovereign, period. Even if the opposition's argument wasn't pretty sensible, I don't see Josh's rhetoric as responsive to what the opposition actually argued.

In the end, although I'll concede that the government's use of "earmarks" isn't precisely the oppressive act of a government "art czar," I am persuaded that earmarks necessarily involve some normative judgments, and that it's better to engage with Natives as equals than simply treat them as subservient dependents and cut a check. That conclusion gets a vote for the counterplan and the opposition. But that was really a foregone conclusion when I decided, based on the counterplan theory argued IN THIS ROUND, that the counterplan was legitimately competitive.