## 1NC

### 1NC – OFF

#### Interpretation: Topical affirmatives may only garner offense from the hypothetical implementation by governments that The appropriation of outer space by private entities is unjust

#### Resolved requires policy action

Louisiana State Legislature (<https://www.legis.la.gov/legis/Glossary.aspx>) Ngong

**Resolution**

**A legislative instrument** that generally is **used for** making declarations, **stating policies**, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution **uses the term "resolved".** Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4 and Senate Rules 10.9, 13.5 and 15.1)

#### Appropriation

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“Appropriation of outer space, therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence, which limits other nations’ access to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

#### Topicality is key to limits and ground---redefining portions of the resolution permits endless reclarification AND creates incentives for avoidance---only aligning research with agent and mechanism solves.

#### Two impacts:

#### 1---Fairness---an unlimited, unpredictable topic disparately raises the research burden for the negative -- treat this is a sufficient win condition because fairness is the logical structure that undergirds all impacts AND controls any benefit to debate.

**Dascal and Knoll** ’**11** [Marcelo and Amnon; May 18th; former Professor of Philosophy at Tel Aviv University, B.A. in Philosophy from the University of Sao Paulo; former Professor of Philosophy at Tel Aviv University; Argumentation: Cognition and Community, "'Cognitive systemic dichotomization' in public argumentation and controversies," p. 20-25]

He opposes positions whose ‘exclusionist’ outlook rejects the normative approach to the political sphere on the grounds that “normative statements can never be subjected to a reasonable discussion” (ibid.: 2), because—he argues—the discussion of politics “is an area of vital interest to all of us and should clearly not be excluded from argumentative reasonableness” (ibid.: 3)—a view with which we are prone to agree. Nevertheless, he admits that in the present situation critical discussion is far from being systematically and successfully applied to that vital area: “In representative democracies, however, the out-comes of the political process tend to be predominantly the product of negotiations be-tween political leaders rather than the result of a universal and mutual process of deliberative disputation” (ibid.). Political debates, therefore, are ‘quasi-discussions’, i.e., “monologues calculated only to win the audience’s consent to one’s own views”, rather than ‘genuine discussions’, i.e., serious attempts to have an intellectual exchange, which is typical of critical discussions (ibid.). In order to overcome this situation, “democracy should always have promoted such a critical discussion of standpoints as a central aim. Only if this is the case can stimulating participation in political discourse enhance the quality of democracy" (ibid.). This can be achieved, however, only by following “the dialectical rules for argumentative discourse that make up a code of conduct for political discourse [and] are therefore of crucial importance to giving substance to the ideal of participatory democracy” (ibid.: 4); thereby fully acknowledging that “education in processing argumentation in a critical discussion is indispensable for a democratic society (van Eemeren 1995: 145-146).

The reasons provided for the failure of the adoption of the critical discussion model in reality ranges from a general allusion to human nature (“in real-life contexts, it has to be taken into account that human interaction is not always automatically 'naturally' and fully oriented toward the ideal of dialectical reasonableness "; van Eemeren 2010: 4) to specific political sphere argumentation handicaps (unwillingness of people “to subject their thinking to critical scrutiny”; “vested interest in particular outcome”; “inequality in power and resources; “different levels of critical skills”; and “a practical demand for an immediate settlement”; van Eemeren 2010: 4). Although these causes may have some explanatory value in some cases, in our opinion their modus operandi is not accounted for and, what is more important, they do not cover the full spectrum of challenges that the successful use of critical discussion in the public and political spheres must face, as we have seen (cf. sections 2 and 3).

No wonder that van Eemeren himself raises the question “whether maintaining the dialectical ideal of critical discussion in political and other real-life contexts is not utopian” (ibid.), to which he replies by admitting that "[t]he ideal of a critical discussion is by definition not a description of any kind of reality but sets a theoretical standard that can be used for heuristic, analytic and evaluative purpose” (ibid.). This ideal seems to be so inspiring that it remains valid as a pure theoretical ideal, “even if the argumentative discourse falls short of the dialectical ideal” (ibid.).

In the light of the substantial gap between the normative ideal and the actual practices of public and political argumentation that PD’s description and explanation provides, a number of doubts arise: Are there structural, rather than merely contingent obstacles in idealized critical discussion that prevents even its approximate use in the public sphere? Can a theory that claims to be a praxis based normative system fulfill its promise if it sets up a threshold that no one who tries to apply it to the public sphere can reach? Doesn’t the very fact that argumentation is excessively idealized in the model PD proposes cause the gap by distancing people concerned by public issues from argumentation at all? All these doubts suggest that a powerful structural phenomenon like the existence of CSDs in the public sphere is perhaps overlooked by PD and requires, for its overcoming, a radically different approach.

4.2 Discrepancies between the PD approach and reasonable argumentation in the public sphere

The discrepancies in question have to do with basic parameters relevant to every argumentative process, namely:

(A) The discussants’ goals and targets: what do they expect to achieve through the argumentation process and what is it capable of providing.

(B) The preconditions for initiating a critical discussion: what are the discussants presumed to know and accept of these preconditions.

(C) The argumentative process that is supposed to lead to the achievement of the discussants’ goals.

(D) The influence of context and agents on the argumentative process.

4.2.1 Goals

Assuming that argumentation is a voluntary endeavor, the parties are presumed to engage in it if and only if: (i) the process will serve their goals; (ii) these goals cannot be achieved by different, better means.

PD describes as follows the aim of engaging in an argumentative process:

Argumentation is basically aimed at resolving a difference of opinion about the acceptability of a standpoint by making an appeal to the other party's reasonableness. (van Eemeren 2010: 1, with reference to van Eemeren & Grootendorst 2004: 11-18)

The difference of opinion is resolved when the antagonist accepts the protagonist's viewpoint on the basis of the arguments advanced or when the protagonist abandons his viewpoint as a result of the critical responses of the antagonist. (van Eemeren 2010: 33)

Simply put, the basic assumption is that a critical discussion’s aim consists in putting forth a certain position by one of the parties for the critical examination of the other, who calls it into question. The latter undertakes to refute the former’s position, while its proponent is committed to defend it. Four stages (see below) are supposed to ensure a valid performance of the refutation and defense tasks. The essential point is that at the end of the four stages the parties clearly agree whether the proponent’s position has been refuted or not and, accordingly, change their position (either retracting it or withdrawing from his questioning). In ‘mixed’ disagreements, in which the antagonist not only questions but also puts forth an opposed position, the same process takes place sequentially, i.e., at first one side (A) attacks trying to refute the other’s (B) position, and after this stage is concluded, they switch roles and the second side (B) proceeds to attack the first (A) in the same fashion.

Regardless of whether the described process is indeed capable to yield a conclusive decision about the refutation of a position, and of whether the linearity of the refutation process makes sense, it is obvious that debates in the public sphere are for the most part ‘mixed’. Furthermore, in so far as these debates involve dichotomous positions (rather than just opposed ones), it is necessary that at the end of the PD process one of the parties accept the position of the other.

It is also worth noticing that, contrary to deliberative democracy approaches, which in some cases approve the attempt to reach agreement in a (public) debate as a form of justification of political systems, PD claims that it is not a consensus theory at all. Instead, it conceives itself as a theory based on Popper’s critical rationality, i.e., as having as its principal goal to provide each party with the means—i.e., refutation attempts—to test critically its position:

[T]he conception of reasonableness upheld in pragma-dialectics insights from critical rationalist epistemology and utilitarian ethics conjoin … The intersubjective acceptability we attribute to the procedure, which is eventually expected to lend conventional validity to the procedure, is primarily based on its instrumentality in doing the job it is intended to do: re-solving a difference of opinion. … This means that, philosophically speaking, the rationale for accepting the pragma-dialectical procedure is pragmatic—more precisely, utilitarian [italics in quoted text]. … However, based on Popper's falsification idea, this is a ‘negative’ and not ‘positive’, utilitarianism. … Rather than maximization of agreement, minimization of disagreement is to be aimed for. (van Eemeren 2010: 34)

The distinction between maximization of agreement and minimization of disagreement purports to stress that PD doesn’t view agreement as the suitable end of the process, but just as “an intermediate step on the way to new, and more advanced, disagreements” (van Eemeren 2010: 26n). Nevertheless, no explanation is given of how these “more advanced disagreements” are engendered as a part of the dynamics of the critical process, nor what is the role or value of such disagreements in the public sphere or elsewhere. This may be due to the fact that PD’s ‘critical discussion’ is not tuned to the generation of new positions or ideas but only to the testing of extant ones, thus echoing once again Popper, now in his focus on the justification rather than on the discovery of theories (see sections 4.2.4 and 5).

In any case, it is quite clear that the only practical result of the critical discussion à la PD of opposed positions on a public issue is to determine whether one discussant succeeded in refuting the other’s position, thus obtaining the adversary’s agreement, who will then share his/her position, at least for some time. In this respect, PD’s critical discussion is close to Habermas’s ‘reasonable argumentation’, whose aim is to reach consensus.15 In spite of the apparent difference between a critical examination of a position aiming at its refutation or at its acceptance, even van Eemeren admits, to some extent, their similarity. He points out that “the pragma-dialectical procedure deals only with ‘first order’ conditions for resolving differences of opinion on the merits by means of critical discussion” (van Eemeren 2010: 34), and stresses that there are ‘higher order’ conditions, ‘internal’ and ‘external’, that are “beyond the agent’s control”, conditions that are similar to Habermas’s “ideal speech conditions” (van Eemeren 2010: 35n). Anyhow, whether according to PD the main goal of the critical discussion process in the public alliance is to create the opportunity for refutation or for agreement (meaning that one of the discussants acknowledges that his position is wrong), the essential assumption of this process is that the participants in it in the public sphere (or elsewhere) must be aware that one of them holds a wrong position and will have to explicitly acknowledge this.

Is such a goal, especially when conceived as the ultimate aim of the proposed argumentative process, feasible and acceptable in the public sphere?

In our opinion, there are at least four reasons for arguing that it is a utopian, hence unacceptable goal, if one takes seriously what should be expected from argumentative practice and theory in the public sphere. First, because PD deserves a critique similar to the one leveled against the Popperian version of critical rationalism it espouses,16 which defends a theory of knowledge “without a knowing subject” (Popper 1972); obviously, such a-contextual position becomes even more problematic if applied to the public and political spheres, where it must operate in a context essentially involved with practical rationality. Second, due to its analogy with theories such as Habermas’s that were discussed in this section as well as in 2.2—an analogy that deserves additional criticism because, unlike Habermasianism, PD overlooks the relationship between the political and public context and argumentative practice. Third, because of PD’s total overlooking of the role of CSDs in public argumentation (cf. 4.2.2). And fourth, due to unilateral value judgments of positions in the public sphere, which lead to simplistic criteria of refutation or acceptance in a domain where complexity is the rule (cf. 2.1.1 and 4.2.3).

(ii) Let us admit, for the sake of argument, that the refutation goal as claimed by PD is central, feasible, acceptable, and useful in public argumentation. Aren’t there better ways to achieve this goal?

The refutation and defense moves stipulated by the PD critical discussion model include, on the one side, the antagonist’s critical remarks or demands and on the other, the proponent’s replies. We believe that it must be assumed that neither the critique nor the replies are previously known to the contenders, which is why they have an interest in engage in the argumentation process: presumably, the expression of both, counter-arguments and defensive-arguments, is good to both sides. In spite of its usefulness in certain situations, this kind of exchange does not amount to the full manifestation of the dialectical critical process, wherein the context and co-text of the dialectical exchange, as well as the cognitive interaction that takes place and evolves throughout the exchange, play a decisive role in the design and ‘inner’ justification of each of the participants’ moves. Argumentation strategies that take into account these resources and make full use of their potential are no doubt setting up another, broader span of goals for the argumentative process, and are more likely to achieve these goals more effectively than they certainly would achieve their PD more limited counterparts (cf. 4.2.4 and 5).

4.2.2 Preconditions

The ideal PD critical discussion can only be realized if some preconditions are satisfied. The most important ones are a) a clear-cut identification of the standpoint that provokes the disagreement, b) the decision of the parties to engage in a discussion, and c) the participants’ commitment to obey the procedural rules. As we shall see, these preconditions share a common assumption, which calls into question the feasibility of using critical discussion in the public sphere.

(A) This precondition assumes that it is possible to isolate rigorously the subject matter of a critical discussion, so as to conduct a focused discussion that makes use only of relevant arguments. This precondition is quite strict, for whenever both discussants defend contrary standpoints, their disagreement should be treated as two separate fully fledged discussions: “… if another discussion begins, it must go through the same stages again—from confrontation stage to concluding stage” (van Eemeren 2010: 10n).

(B) This precondition subordinates the decision to engage in the discussion to the evaluation that the discussants share enough common ground to pursue it adequately: “After the parties have decided that there is enough common ground to conduct a discussion …” (van Eemeren 2010: 33).

(C) This precondition stresses the ‘contractual’ character of a critical discussion, which requires explicit mutual commitments by the discussants. Its rationale is that without such commitments the aim of the critical discussion, i.e., the resolution of the difference of opinions, will not be achieved, which makes engaging in the discussion pointless: “There is no point in venturing to resolve a difference … if there is no mutual commitment to a common starting point, which may include procedural commitments as well as substantive agreement” (van Eemeren and Grootendorst 2004: 60).

These ‘first order’ preconditions, as they are labeled in PD (cf. van Eemeren 2010: 33), are the conditions that candidates to participate in a critical discussion must fulfill if they intend to do so and can afford it personally (a ‘second order’ condition) and politically (a ‘third order’ condition).17 In addition, the first order conditions demand from the prospective discussants a clear, distinct, and detailed picture of the scope of the discussion that they are about to engage in. This means not mixing up the various differences of opinion that the discussion may involve, and being able to separate them properly as the subject matter for independent discussions; a further requirement is the anticipated identification of the pieces of the ‘substantive agreement’ forming the starting point in order to ensure that they are sufficient for conducting the discussion up to a satisfactory closure.

#### 2---Clash– detailed research over specific points of difference is necessary to cultivate third-and-fourth-line iteration – only clash guided by stasis accesses the full weight of our offense.

**Iverson ’9** [Joel; 2009; Associate Professor of Communication at the University of Montana, Ph.D in Communication from Arizona State University Relations at the University of Sydney; Debate Central, “Can Cutting Cards Carve into Our Personal Lives: An Analysis of Debate Research on Personal Advocacy,” https://debate.uvm.edu/dybvigiverson1000.html; GR]

Mitchell (1998) provides a thorough examination of the pedagogical implication for academic debate. Although Mitchell acknowledges that debate provides preparation for participation in democracy, limiting debate to a laboratory where students practice their skill for future participation is criticized. Mitchell contends: For students and teachers of argumentation, the heightened salience of this question should signal the danger that critical thinking and oral advocacy skills alone may not be sufficient for citizens to assert their voices in public deliberation. (p. 45) Mitchell contends that the laboratory style setting creates barriers to other spheres, creates a "sense of detachment" and causes debaters to see research from the role of spectators. Mitchell further calls for "argumentative agency [which] involves the capacity to contextualize and employ the skills and strategies of argumentative discourse in fields of social action, especially wider spheres of public deliberation" (p. 45). Although we agree with Mitchell that debate can be an even greater instrument of empowerment for students, we are more interested in examining the impact of the intermediary step of research. In each of Mitchell's examples of debaters finding creative avenues for agency, there had to be a motivation to act. It is our contention that the research conducted for competition is a major catalyst to propel their action, change their opinions, and to provide a greater depth of understanding of the issues involved. The level of research involved in debate creates an in-depth understanding of issues. The level of research conducted during a year of debate is quite extensive. Goodman (1993) references a Chronicle of Higher Education article that estimated "the level and extent of research required of the average college debater for each topic is equivalent to the amount of research required for a Master's Thesis (cited in Mitchell, 1998, p. 55). With this extensive quantity of research, debaters attain a high level of investigation and (presumably) understanding of a topic. As a result of this level of understanding, debaters become knowledgeable citizens who are further empowered to make informed opinions and energized to take action. Research helps to educate students (and coaches) about the state of the world. Without the guidance of a debate topic, how many students would do in-depth research on female genital mutilation in Africa, or United Nations sanctions on Iraq? The competitive nature of policy debate provides an impetus for students to research the topics that they are going to debate. This in turn fuels students’ awareness of issues that go beyond their front doors. Advocacy flows from this increased awareness. Reading books and articles about the suffering of people thousands of miles away or right in our own communities drives people to become involved in the community at large. Research has also focused on how debate prepares us for life in the public sphere. Issues that we discuss in debate have found their way onto the national policy stage, and training in intercollegiate debate makes us good public advocates. The public sphere is the arena in which we all must participate to be active citizens. Even after we leave debate, the skills that we have gained should help us to be better advocates and citizens. Research has looked at how debate impacts education (Matlon and Keele 1984), legal training (Parkinson, Gisler and Pelias 1983, Nobles 19850 and behavioral traits (McGlone 1974, Colbert 1994). These works illustrate the impact that public debate has on students as they prepare to enter the public sphere. The debaters who take active roles such as protesting sanctions were probably not actively engaged in the issue until their research drew them into the topic. Furthermore, the process of intense research for debate may actually change the positions debaters hold. Since debaters typically enter into a topic with only cursory (if any) knowledge of the issue, the research process provides exposure to issues that were previously unknown. Exposure to the literature on a topic can create, reinforce or alter an individual's opinions. Before learning of the School for the America's, having an opinion of the place is impossible. After hearing about the systematic training of torturers and oppressors in a debate round and reading the research, an opinion of the "school" was developed. In this manner, exposure to debate research as the person finding the evidence, hearing it as the opponent in a debate round (or as judge) acts as an initial spark of awareness on an issue. This process of discovery seems to have a similar impact to watching an investigative news report. Mitchell claimed that debate could be more than it was traditionally seen as, that it could be a catalyst to empower people to act in the social arena. We surmise that there is a step in between the debate and the action. The intermediary step where people are inspired to agency is based on the research that they do. If students are compelled to act, research is a main factor in compelling them to do so. Even if students are not compelled to take direct action, research still changes opinions and attitudes. Research often compels students to take action in the social arena. Debate topics guide students in a direction that allows them to explore what is going on in the world. Last year the college policy debate topic was, Resolved: That the United States Federal Government should adopt a policy of constructive engagement, including the immediate removal of all or nearly all economic sanctions, with the government(s) of one or more of the following nation-states: Cuba, Iran, Iraq, Syria, North Korea. This topic spurred quite a bit of activism on the college debate circuit. Many students become actively involved in protesting for the removal of sanctions from at least one of the topic countries. The college listserve was used to rally people in support ofvarious movements to remove sanctions on both Iraq and Cuba. These messages were posted after the research on the topic began. While this topic did not lend itself to activism beyond rallying the government, other topics have allowed students to take their beliefs outside of the laboratory and into action. In addition to creating awareness, the research process can also reinforce or alter opinions. By discovering new information in the research process, people can question their current assumptions and perhaps formulate a more informed opinion. One example comes from a summer debate class for children of Migrant workers in North Dakota (Iverson, 1999). The Junior High aged students chose to debate the adoption of Spanish as an official language in the U.S. Many students expressed their concern that they could not argue effectively against the proposed change because it was a "truism." They were wholly in favor of Spanish as an official language. After researching the topic throughout their six week course, many realized much more was involved in adopting an official language and that they did not "speak 'pure' Spanish or English, but speak a unique dialect and hybrid" (Iverson, p. 3). At the end of the class many students became opposed to adopting Spanish as an official language, but found other ways Spanish should be integrated into American culture. Without research, these students would have maintained their opinions and not enhanced their knowledge of the issue. The students who maintained support of Spanish as an official language were better informed and thus also more capable of articulating support for their beliefs. The examples of debate and research impacting the opinions and actions of debaters indicate the strong potential for a direct relationship between debate research and personal advocacy. However, the debate community has not created a new sea of activists immersing this planet in waves of protest and political action. The level of influence debater search has on people needs further exploration. Also, the process of research needs to be more fully explored in order to understand if and why researching for the competitive activity of debate generates more interest than research for other purposes such as classroom projects. Since parliamentary debate does not involve research into a single topic, it can provide an important reference point for examining the impact of research in other forms of debate. Based upon limited conversations with competitors and coaches as well as some direct coaching and judging experience in parliamentary debate, parliamentary forms of debate has not seen an increase in activism on the part of debaters in the United States. Although some coaches require research in order to find examples and to stay updated on current events, the basic principle of this research is to have a commonsense level of understanding(Venette, 1998). As the NPDA website explains, "the reader is encouraged to be well-read in current events, as well as history, philosophy, etc. Remember: the realm of knowledge is that of a 'well-read college student'" (NPDA Homepage,<http://www.bethel.edu/Majors/Communication/npda/faq2.html>). The focus of research is breadth, not depth. In fact, in-depth research into one topic for parliamentary debate would seem to be counterproductive. Every round has a different resolution and for APDA, at least, those resolutions are generally written so they are open to a wide array of case examples, So, developing too narrow of a focus could be competitively fatal. However, research is apparently increasing for parliamentary teams as reports of "stock cases" used by teams for numerous rounds have recently appeared. One coach did state that a perceived "stock case" by one team pushed his debaters to research the topic of AIDS in Africa in order to be equally knowledgeable in that case. Interestingly, the coach also stated that some of their research in preparation for parliamentary debate was affecting the opinions and attitudes of the debaters on the team. Not all debate research appears to generate personal advocacy and challenge peoples' assumptions. Debaters must switch sides, so they must inevitably debate against various cases. While this may seem to be inconsistent with advocacy, supporting and researching both sides of an argument actually created stronger advocates. Not only did debaters learn both sides of an argument, so that they could defend their positions against attack, they also learned the nuances of each position. Learning and the intricate nature of various policy proposals helps debaters to strengthen their own stance on issues

#### 3---Movement Lawyering Skills – contingent, focused debates around locus points of difference are key to develop activists skills for political justice.

Archer 18, Deborah N. "Political Lawyering for the 21st Century." Denv. L. Rev. 96 (2018): 399. (Associate Professor of Clinical Law at NYU School of Law)//Elmer

Political justice lawyers must be able to break apart a systemic problem **into manageable components**. The **complexity** of social problems, can **cause law students, and even experienced political lawyers, to become overwhelmed**. In describing his work challenging United States military and economic interventions abroad, civil rights advocate and law professor Jules Lobel wrote of this process: “Our foreign-policy litigation became a sort of Sisyphean quest as we maneuvered through a hazy maze cluttered with gates. Each gate we unlocked led to yet another that blocked our path, with the elusive goal of judicial relief always shrouded in the twilight mist of the never-ending maze.”144 Pulling apart a larger, systemic problem into its smaller components can help elucidate options for advocacy. An instructive example is the use of excessive force by police officers against people of color. Every week seems to bring a new video featuring graphic police violence against Black men and women. Law students are frequently outraged by these incidents. But the sheer frequency of these videos and lack of repercussions for perpetrators overwhelm those students just as often. What can be done about a problem so big and so pervasive? To move toward justice, advocates must be able to break apart the forces that came together to lead to that moment: intentional discrimination, implicit bias, ineffective training, racial segregation, lack of economic opportunity, the over-policing of minority communities, and the failure to invest in non-criminal justice interventions that adequately respond to homelessness, mental illness, and drug addiction. None of these component problems are easily addressed, but breaking them apart is more manageable—and more realistic—than acting as though there is a single lever that will solve the problem. After identifying the component problems, advocates can select one and repeat the process of breaking down that problem until they get to a point of entry for their advocacy. 2. Identifying Advocacy Alternatives As discussed earlier, political justice lawyering embraces litigation, community organizing, interdisciplinary collaboration, legislative reform, public education, direct action, and other forms of advocacy to achieve social change. After parsing the underlying issues, lawyers need to identify what a lawyer can and should do on behalf of impacted communities and individuals, and this includes determining the most effective advocacy approach. Advocates must also strategize about what can be achieved in the short term versus the long term. The fight for justice is a marathon, not a sprint. Many law students experience frustration with advocacy because they expect immediate justice now. They have read the opinion in Brown v. Board of Education, but forget that the decision was the result of a decades-long advocacy strategy.145 Indeed, the decision itself was no magic wand, as the country continues to work to give full effect to the decision 70 years hence. Advocates cannot only fight for change they will see in their lifetime, they must also fight for the future.146 Change did not happen over night in Brown and lasting change cannot happen over night today. Small victories can be building blocks for systemic reform, and advocates must learn to see the benefit of short-term responsiveness as a component of long-term advocacy. Many lawyers subscribe to the American culture of success, with its uncompromising focus on immediate accomplishments and victories.147 However, those interested in social justice must adjust their expectations. Many pivotal civil rights victories were made possible by the seemingly hopeless cases that were brought, and lost, before them.148 In the fight for justice, “success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”149 Again, Professor Lobel’s words are instructive: “the current commitment of civil rights groups, women’s groups, and gay and lesbian groups to a legal discourse to legal activism to protect their rights stems in part from the willingness of activists in political and social movements in the nineteenth century to fight for rights, even when they realized the courts would be unsympathetic.”150 Professor Lobel also wrote about Helmuth James Von Moltke, who served as legal advisor to the German Armed Services until he was executed in 1945 by Nazis: “In battle after losing legal battle to protect the rights of Poles, to save Jews, and to oppose German troops’ war crimes, he made it clear that he struggled not just to win in the moment but to build a future.”151 3. Creating a Hierarchy of Values Advocates challenging complex social justice problems can find it difficult to identify the correct solution when one of their social justice values is in conflict with another. A simple example: a social justice lawyer’s demands for swift justice for the victim of police brutality may conflict with the lawyer’s belief in the officer’s fundamental right to due process and a fair trial. While social justice lawyers regularly face these dilemmas, law students are not often forced to struggle through them to resolution in real world scenarios—to make difficult decisions and manage the fallout from the choices they make in resolving the conflict. Engaging in complex cases can force students to work through conflicts, helping them to articulate and sharpen their beliefs and goals, forcing them to clearly define what justice means broadly and in the specific context presented. Lawyers advocating in the tradition of political lawyering anticipate the inevitable conflict between rights, and must seek to resolve these conflicts through a “hierarchy of values.”152 Moreover, in creating the hierarchy, the perspectives of those directly impacted and marginalized should be elevated “because it is in listening to and standing with the victims of injustice that the need for critical thinking and action become clear.”153 One articulation of a hierarchy of values asserts “people must be valued more than property. Human rights must be valued more than property rights. Minimum standards of living must be valued more than the privileged liberty of accumulated political, social and economic power. Finally, the goal of increasing the political, social, and economic power of those who are left out of the current arrangements must be valued more than the preservation of the existing order that created and maintains unjust privilege.”154 C. Rethinking the Role of the Clinical Law Professor: Moving From Expert to Colleague Law students can learn a new dimension of lawyering by watching their clinical law professor work through innovative social justice challenges alongside them, as colleagues. This is an opportunity not often presented in work on small cases where the clinical professor is so deeply steeped in the doctrine and process, the case is largely routine to her and she can predict what is to come and adjust supervision strategies accordingly.155 However, when engaged in political lawyering on complex and novel legal issues, both the student and the teacher may be on new ground that transforms the nature of the student-teacher relationship. A colleague often speaks about acknowledging the persona professors take on when they teach and how that persona embodies who they want to be in the classroom—essentially, whenever law professors teach they establish a character. The persona that a clinical professor adopts can have a profound effect on the students, because the character is the means by which the teacher subtly models for the student—without necessarily ever saying so— the professional the teacher holds herself to be and the student may yet become. In working on complex matters where the advocacy strategy is unclear, the clinical professor makes himself vulnerable by inviting students to witness his struggles as they work together to develop the most effective strategy. By making clear that he does not have all of the answers, partnering with his students to discover the answers, and sharing his own missteps along the way, a clinical law professor can reclaim opportunities to model how an experienced attorney acquires new knowledge and takes on new challenges that may be lost in smaller case representation.156 Clinical law faculty who wholeheartedly subscribe to the belief that professors fail to optimize student learning if students do not have primary control of a matter from beginning to end may view a decision to work in true partnership with students on a matter as a failure of clinical legal education. Indeed, this partnership model will inevitably impact student autonomy and ownership of the case.157 But, there is a unique value to a professor working with her student as a colleague and partner to navigate subject matter new to both student and professor.158 In this relationship, the professor can model how to exercise judgment and how to learn from practice: to independently learn new areas of law; to consult with outside colleagues, experts in the field, and community members without divulging confidential information; and to advise a client in the midst of ones own learning process.159 III. A Pedagogical Course Correction “If it offends your sense of justice, there’s a cause of action.” - Florence Roisman, Professor, Indiana University School of Law160 In response to the shifts in my students’ perspectives on racism and systemic discrimination, their reluctance to tackle systemic problems, their conditioned belief that strategic litigation should be a tool of last resort, and my own discomfort with reliance on small cases in my clinical teaching, I took a step back in my own practice. How could I better teach my students to be champions for justice even when they are overwhelmed by society’s injustice; to challenge the complex and systemic discrimination strangling minority communities, and to approach their work in the tradition of political lawyering. I reflected not only on my teaching, but also on my experiences as a civil rights litigator, to focus on what has helped me to continue doing the work despite the frustrations and difficulties. I realized I was spending too much time teaching my students foundational lawyering skills, and too little time focused on the broader array of skills I knew to be critical in the fight for racial justice. We regularly discussed systemic racism during my clinic seminars in order to place the students’ work on behalf of their clients within a larger context. But by relying on carefully curated small cases I was inadvertently desensitizing my students to a lawyer’s responsibility to challenge these systemic problems, and sending the message that the law operates independently from this background and context. I have an obligation to move beyond teaching my students to be “good soldiers for the status quo” to ensuring that the next generation is truly prepared to fight for justice.161 And, if my teaching methods are encouraging the reproduction of the status quo it is my obligation to develop new interventions.162 Jane Aiken’s work on “justice readiness” is instructive on this point. To graduate lawyers who better understand their role in advancing justice, Jane Aiken believes clinics should move beyond providing opportunities for students to have a social justice experience to promoting a desire and ability to do justice.163 She suggests creating disorienting moments by selecting cases where students have no outside authority on which to rely, requiring that they draw from their own knowledge base and values to develop a legal theory.164 Disorienting moments give students: experiences that surprise them because they did not expect to experience what they experienced. This can be as simple as learning that the maximum monthly welfare benefit for a family of four is about $350. Or they can read a [ ] Supreme Court case that upheld Charles Carlisle’s conviction because a wyer missed a deadline by one day even though the district court found there was insufficient evidence to prove his guilt. These facts are often disorienting. They require the student to step back and examine why they thought that the benefit amount would be so much more, or that innocence would always result in release. That is an amazing teaching moment. It is at this moment that we can ask students to examine their own privilege, how it has made them assume that the world operated differently, allowing them to be oblivious to the indignities and injustices that occur every day.165 Giving students an opportunity to “face the fact that they cannot rely on ‘the way things are’ and meet the needs of their clients” is a powerful approach to teaching and engaging students.166 But, complex problems call for larger and more sustained disorienting moments. Working with students on impact advocacy in the model of political lawyering provides a range of opportunities to immerse students in disorienting moments. A. Immersing Students in “Disorienting Moments”: Race, Poverty, and Pregnancy Today, I try to immerse my students in disorienting moments to make them justice ready and move them in the direction of political lawyering. My clinic docket has always included a small number of impact litigation matters. However, in the past these cases were carefully screened to ensure that they involved discrete legal issues and client groups. In addition, our representation always began after our outside co-counsel had already conducted an initial factual investigation, identified the core legal issues, and developed an overall advocacy strategy, freeing my students from these responsibilities. Now, my clinic takes on impact matters at earlier stages where the strategies are less clear and the legal questions are multifaceted and ill- defined. This mirrors the experiences of practicing social justice lawyers, who faced with an injustice, must discover the facts, identify the legal claims, develop strategy, cultivate allies, and ultimately determine what can be done—with the knowledge that “nothing” is not an option. This approach provides students with the space to wrestle with larger, systemic issues in a structured and supportive educational environment, taking on cases that seem difficult to resolve and working to bring some justice to that situation. They are also gaining experience in many of the fundamentals of political lawyering advocacy. Recently, my students began work on a new case. Several public and private hospitals in low-income New York City neighborhoods are drug testing pregnant women or new mothers without their knowledge or informed consent. This practice reflects a disturbing convergence between racial and economic disparities, and can have a profound impact on the lives of the poor women of color being tested at precisely the time when they are most in need of support. We began our work when a community organization reached out to the clinic and spoke to us about complaints that hospitals around New York City were regularly testing pregnant women—almost exclusively women of color—for drug use during prenatal check ups, during the chaos and stress of labor and delivery, or during post-delivery. The hospitals report positive test results to the City’s Administration for Children’s Services (“ACS”), which is responsible for protecting children from abuse and neglect, for further action.167 Most of the positive tests are for marijuana use. After a report is made, ACS commences an investigation to determine whether child abuse or neglect has taken place, and these investigations trigger inquiries into every aspect of a family’s life. They can lead to the institution of child neglect proceedings, and potentially to the temporary or permanent removal of children from the household. Even where that extreme result is avoided, an ACS investigation can open the door to the City’s continued, and potentially unwelcome, involvement in the lives of these families. These policies reflect deeply inequitable practices. Investigating a family after a positive drug test is not necessarily a bad thing. After all, ACS offers a number of supportive services that can help stabilize and strengthen vulnerable families. And of course, where children’s safety is at risk, removal may sometimes be the appropriate result. However, hospitals do not conduct regular drug tests of mothers in all New York City communities. Private hospitals in wealthy areas rarely test pregnant women or new mothers for drug misuse. In contrast, at hospitals serving poor women, drug testing is routine. Race and class should not determine whether such testing, and the consequences that result, take place. Investigating the New York City drug-testing program immersed the students in disorienting moments at every stage of their work. During our conversations, the students regularly expressed surprise and discomfort with the hospitals’ practices. They were disturbed that public hospitals— institutions on which poor women and women of color rely for something as essential as health care—would use these women’s pregnancy as a point of entry to control their lives.168 They struggled to explain how the simple act of seeking medical care from a hospital serving predominantly poor communities could deprive patients of the respect, privacy, and legal protections enjoyed by pregnant women in other parts of the City. And, they were shocked by the way institutions conditioned poor women to unquestioningly submit to authority.169 Many of the women did not know that they were drug tested until the hospital told them about the positive result and referred them to ACS. Still, these women were not surprised: that kind of disregard, marginalization, and lack of consent were a regular aspect of their lives as poor women of color. These women were more concerned about not upsetting ACS than they were about the drug testing. That so many of these women could be resigned to such a gross violation of their rights was entirely foreign to most of my students. B. Advocacy in the Face of Systemic Injustice Although the students are still in the early stages of their work, they have already engaged in many aspects of political justice lawyering. They approached their advocacy focused on the essence of political lawyering— enabling poor, pregnant women of color who enjoy little power or respect to claim and enjoy their rights, and altering the allocation of power from government agencies and institutions back into the hands of these women. They questioned whose interests these policies and practices were designed to serve, and have grounded their work in a vision of an alternative societal construct in which their clients and the community are respected and supported. The clinic students were given an opportunity to learn about social, legal, and administrative systems as they simultaneously explored opportunities to change those systems. The students worked to identify the short and long term goals of the impacted women as well the goals of the larger community, and to think strategically about the means best suited to accomplish these goals. And, importantly, while collaborating with partners from the community and legal advocacy organizations, the students always tried to keep these women centered in their advocacy. In breaking down the problem of drug testing poor women of color, the students worked through an issue that lives at the intersection of reproductive freedom, family law, racial justice, economic inequality, access to health care, and the war on drugs. In their factual investigation, which included interviews of impacted women, advocates, and hospital personnel, and the review of records obtained through Freedom of Information Law requests, the students began to break down this complex problem. They explored the disparate treatment of poor women and women of color by health care providers and government entities, implicit and explicit bias in healthcare, the disproportionate referral of women of color to ACS, the challenges of providing medical services to underserved communities, the meaning of informed consent, the diminished rights of people who rely on public services, and the criminalization of poverty. The students found that list almost as overwhelming as the initial problem itself, but identifying the components allowed the students to dig deeper and focus on possible avenues of challenge and advocacy. It was also critically important to make the invisible forces visible, even if the law currently does not provide a remedy. Working on this case also gave the students and me the opportunity to work through more nuanced applications of some of the lawyering concepts that were introduced in their smaller cases, including client-centered lawyering when working on behalf of the community; large-scale fact investigation; transferring their “social justice knowledge” to different contexts; crafting legal and factual narratives that are not only true to the communities’ experience, but can persuade and influence others; and how to develop an integrated advocacy plan. The students frequently asked whether we should even pursue the matter, questioning whether this work was client- centered when it was no longer the most pressing concern for many of the women we met. These doubts opened the door to many rich discussions: can we achieve meaningful social change if we only address immediate crises; can we progress on larger social justice issues without challenging their root causes; how do we recognize and address assumptions advocates may have about what is best for a client; and how can we keep past, present, and future victims centered in our advocacy? The work on the case also forced the clinic students to work through their own understanding of a hierarchy of values. They struggled with their desire to support these community hospitals and the public servants who work there under difficult circumstances on the one hand, and their desire to protect women, potentially through litigation, from discriminatory practices. They also struggled to reconcile their belief that hospitals should take all reasonable steps to protect the health and safety of children, as well as their emotional reaction to pregnant mothers putting their unborn children in harms way by using illegal drugs against the privacy rights of poor and marginalized women. They were forced to pause and think deeply about what justice would look like for those mothers, children, and communities. CONCLUSION America continues to grapple with systemic injustice. Political justice lawyering offers powerful strategies to advance the cause of justice—through integrated advocacy comprising the full array of tools available to social justice advocates, including strategic systemic reform litigation. It is the job of legal education to prepare law students to become effective lawyers. For those aspiring to social justice that should include training students to utilize the tools of political justice lawyers. Clinical legal offers a tremendous opportunity to teach the next generation of racial and social justice advocates how to advance equality in the face of structural inequality, if only it will embrace the full array of available tools to do so. In doing so, clinical legal education will not only prepare lawyers to enact social change, they can inspire lawyers overwhelmed by the challenges of change. In order to provide transformative learning experiences, clinical education must supplement traditional pedagogical tools and should consider political lawyering’s potential to empower law students and communities.

#### TVA---States ought to ban appropriation of outer space by private actors---read adv for why the appropriation and exploration of outer space is an instantiation of settler colonialist ideology

**Bowen 16** (University of Southern California. "Space: The Final Settler Colony. Two Frontiers: Settler Colonialism in California and Australia. N.p., 23 July 2016. Web. 19 July 2017. <https://pwpaustralia2016.wordpress.com/2016/07/23/space-the-final-settler-colony/>. DTL)

This post from the International Space Station: It’s in our evolutionary creed that we have a manifest destiny to go into space and to find new worlds to live in. Star Trek allowed us to imagine what could be, if we dared to boldly go where no one had gone before. The space station is helping us make it a reality. The post also came with this video: The wording of the post intrigued me for several reasons. For one, the term “manifest destiny” is the same excuse Anglo settlers used to justify their westward expansion in North America. This expansion led to the violence and racism that many of our blog posts have detailed. NASA’s use of this phrase indicates (perhaps unintentionally) a rather dark form of space exploration. Another interesting point is the association of “manifest destiny” with “our evolutionary creed.” Manifest destiny was once linked to God, and it was Providence that “gave” land to white settlers. Now, NASA has linked it to science and evolution, and their post suggests that our very DNA codes for a drive to explore and settle. Apparently, our genes are the cause of our urge to expand, and this alone entitles us to ownership of space. But this is a risky (and ludicrous, in my opinion) claim. If we connect original manifest destiny to genetics, we poise ourselves at the top of a slippery slope that leads straight down to racism and white supremacy. Finally, what happens to space exploration if we really do find life out there? The questions and problems that this possibility raises are too many to discuss in a single post, but it is worth noting that the presence of intelligent extraterrestrial life would undoubtedly diminish the claim “our evolutionary creed” supposedly gives us to other worlds. Even without aliens, it is unlikely that space colonization can proceed with methods as peaceful as those employed by the United Federation of Planets and Starfleet (and they have their fair share of troubles). When the idea of manifest destiny becomes involved, it seems that we cannot help but wreak violence upon each other. When we visited the Autry, we were able to view John Gast’s 1872 painting American Progress, in which Lady Liberty brings the light of civilization into the West. But as she proceeds, she drives the Native Americans further and further away from their homelands. The painting embodies manifest destiny and is emblematic of the racism and oppression that manifest destiny brings with it. As humanity draws closer and closer to Mars and the rest of the solar system, let us hope we can leave such vices behind on Earth.

#### Switch side debate solves all of their offense—there’s no specific reason why their arguments have to be read on the aff—that solves predictability and accesses their education impact turns because plans on the aff and Ks on the neg can challenge perspectives, stances, representations, and epistemologies

### 1NC – OFF

#### Statesought to call a global constitutional convention and establish a constitution reflecting intergenerational concern with exclusive authority to ban appropriation of outer space by private entities and bind participating bodies to its result through the undercommons

#### That solves the aff – it addresses shared anxieties while building political consensus

Gardiner 14 1 [Stephen M. Gardiner, Professor of Philosophy and Ben Rabinowitz Endowed Professor of Human Dimensions of the Environment at the University of Washington, Seattle, “A Call for a Global Constitutional Convention Focused on Future Generations,” 2014, *Ethics & International Affairs*, Vol. 28, Issue 3, pp. 299-315, https://doi.org/10.1017/S0892679414000379, EA]

A Constitutional Convention

In my view, the above line of reasoning leads naturally to a more specific proposal: that we—concerned individuals, interested community groups, national governments, and transnational organizations—should initiate a call for a global constitutional convention focused on future generations. This proposal has two components. The first component is procedural. The proposal takes the form of a “call to action.” It is explicitly an attempt to engage a range of actors, based on a claim that they have or should take on a set of responsibilities, and a view about how to go about discharging those responsibilities. The second component is substantive. The main focus for action is a push for the creation of a constitutional convention at the global level, whose role is to pave the way for an overall constitutional system that appropriately embodies intergenerational concern.

The substantive idea rests on several key ideas. Still, for the purposes of a basic proposal, I suggest that these be understood in a relatively open way that, as far as is practicable, does not prejudge the outcome of the convention, and especially its main recommendations. First, the convention itself should be understood as “a representative body called together for some occasional or temporary purpose” and “constituted by statute to represent the people in their primary relations.”14 Second, a constitutional system should be thought of in a minimalist sense as “a set of norms (rules, principles or values) creating, structuring, and possibly defining the limits of government power or authority.”15 Third, the “instigating” role of the convention should be to discuss, develop, make recommendations toward, and set in motion a process for the establishment of a constitution. Fourth, its primary subject matter should be the need to adequately reflect and embody intergenerational concern, where this would include at least the protection of future generations, the promotion of their interests (where “interests” is to be broadly conceived so as to include rights, claims, welfare, and so on), and the discharging of duties with respect to them. It may also (and in my view should) include some way of reflecting concern for past generations, including responsiveness to at least certain of their interests and views. However, I will leave that issue aside in what follows.

The proposal to initiate a call for a global constitutional convention has at least two attractive features. First, it is based in a deep political reality, and does not underplay the challenge. It acknowledges the problem as it is, both specific and general, and calls attention to the heart of that problem, including to the failures of the current system, the need for an alternative, and the background issue of responsibility. Moreover, though the proposal is dramatic and rhetorically eye-catching, it is so in a way that is appropriately responsive to the seriousness of the issue at hand, the persistent political inertia surrounding more modest initiatives, and the fact that (grave though concerns about it are) climate change is only one instance of the tyranny of the contemporary (and the wider perfect moral storm), and we should expect others to arise over the coming decades and centuries.

The second attractive feature of the proposal is that, though ambitious, it is not alienating. While it does not succumb to despair in the face of the challenge, neither does it needlessly polarize and divide from the outset (for example, by leaping to specific recommendations about how to fill the institutional gap). Instead, it acknowledges that there are fundamental difficulties and anxieties, but uses them to start the right kind of debate, rather than to foreclose it. As a result, the proposal is a promising candidate to serve as the subject of a wide and overlapping political consensus, at least among those who share intergenerational concern.

Selective Mirroring

To quell some initial anxieties, it is perhaps worth clarifying the open-ended and non-alienating character of the proposal. One temptation would be to view the call for a global constitutional convention as a fairly naked plea for world government, a prospect that would be deeply alienating—indeed anathema—to many. However, that is not my intention. Though it is possible that a global constitutional convention would lead in this direction, it is by no means certain.

At a minimum, no such body could plausibly recommend any form of “world government” without simultaneously advancing detailed suggestions about how to avoid the standard threats such an institution might pose. Moreover, it seems perfectly conceivable, even likely under current ways of thinking, that a global constitutional convention would pursue what we might call a selective mirroring strategy. Specifically, a convention would seek to develop a broader system of institutions and practices that reflected the desirable features of a powerful and highly centralized global authority but neutralized the standing threats posed by it (for example, it might employ familiar strategies such as the separation of powers). In all likelihood, one feature of a selective mirroring approach would be the significant preservation of existing institutions to serve as a bulwark against the excesses of any newly created ones. Whether and how such a strategy might be made effective against the perfect moral storm, and whether something closer to a “world government” would do better, would be a central issue for discussion by the convention.

#### It spills over to foster broader intergenerational representation, but independence is key

Gardiner 14 2 [Stephen M. Gardiner, Professor of Philosophy and Ben Rabinowitz Endowed Professor of Human Dimensions of the Environment at the University of Washington, Seattle, “A Call for a Global Constitutional Convention Focused on Future Generations,” 2014, *Ethics & International Affairs*, Vol. 28, Issue 3, pp. 299-315, https://doi.org/10.1017/S0892679414000379, EA]

One set of guidelines concerns how the global constitutional convention relates to other institutions. The first guideline concerns relative independence:

(1) Autonomy: Any global constitutional convention should have considerable autonomy from other institutions, and especially from those dominated by factors that generate or facilitate the tyranny of the contemporary (and the perfect moral storm, more generally).

Thus, for example, attempts should be made to insulate the global constitutional convention from too much influence from short-term and narrowly economic forces.

The second guideline concerns limits to that independence:

(2) Mutual Accountability: Any global constitutional convention should be to some extent accountable to other major institutions, and they should be accountable to it.

Thus, for example, though the global constitutional convention should not be able to decide unilaterally that national institutions should be radically supplanted, nevertheless such institutions should not have a simple veto on the recommendations of the convention, including those that would result in sharp limits to their powers.

A third guideline concerns adequacy:

(3) Functional Adequacy: The global constitutional convention should be constructed in such a way that it is highly likely to produce recommendations that are functionally adequate to the task.

Thus, for example, the tasks of the global constitutional convention should not be assigned to any currently existing body whose design and authority is clearly unsuitable. In my view, this guideline rules out proposals such as the Royal Society’s suggestion that governance of geoengineering should be taken up by the United Nations’ Commission on Sustainable Development,20 or the Secretary-General’s recommendation of a new United Nations’ High Commissioner for Future Generations.21 Though such proposals may have merit for some purposes (for example, as pragmatic, incremental suggestions to highlight the importance of intergenerational issues), they are too modest, in my opinion, to reflect the gravity of the threats posed by climate change in particular, and the perfect moral storm more generally.

Aims

A second set of guidelines concerns the aims of the global constitutional convention. Here, the perfect moral storm analysis would suggest:

(4) Comprehensiveness: The convention should be under a mandate to consider a very broad range of global, intergenerational issues, to focus on such issues at a foundational level, and to recommend institutional reform accordingly.

(5) Standing Authority: Though the convention may recommend the establishment of some temporary and issue-specific bodies, its focus should be on the establishment of institutions with standing authority over the long term.

These guidelines are significant in that they stand against existing issue-specific approaches to global and intergenerational problems, and encourage not only a less ad hoc but also a more proactive approach. In particular, the global constitutional convention might be expected to recommend institutions that would be charged with identifying, monitoring, and taking charge of intergenerational issues as such. For example, such institutions should address not only specific policy issues (such as climate change, large asteroid detection, and long-term nuclear waste) but also the need to identify similar threats before they arise.

#### Proactive measures mitigate a laundry list of emerging catastrophic risks – extinction

Beckstead et al. 14 [Nick Beckstead, Nick Bostrom, Niel Bowerman, Owen Cotton-Barratt, William MacAskill, Seán Ó hÉigeartaigh, Toby Ord, \* Future of Humanity Institute, University of Oxford, \*\* Director, Future of Humanity Institute, University of Oxford, \*\*\* Global Priorities Project, Centre for Effective Altruism; Department of Physics, University of Oxford, \*\*\*\* Global Priorities Project, Centre for Effective Altruism; Future of Humanity Institute, University of Oxford, \*\*\*\*\* Uehiro Centre for Practical Ethics, University of Oxford, \*\*\*\*\*\* Cambridge Centre for the Study of Existential Risk; Future of Humanity Institute, University of Oxford, \*\*\*\*\*\*\* Programme on the Impacts of Future Technology, Oxford Martin School, University of Oxford, “Policy Brief: Unprecedented Technological Risks,” 2014, *The Global Priorities Project, The Future of Humanity Institute, The Oxford Martin Programme on the Impacts of Future Technology, and The Centre for the Study of Existential Risk*, https://www.fhi.ox.ac.uk/wp-content/uploads/Unprecedented-Technological-Risks.pdf, Accessed: 03/13/21, EA]

In the near future, major technological developments will give rise to new unprecedented risks. In particular, like nuclear technology, developments in synthetic biology, geoengineering, distributed manufacturing and artificial intelligence create risks of catastrophe on a global scale. These new technologies will have very large benefits to humankind. But, without proper regulation, they risk the creation of new weapons of mass destruction, the start of a new arms race, or catastrophe through accidental misuse. Some experts have suggested that these technologies are even more worrying than nuclear weapons, because they are more difficult to control. Whereas nuclear weapons require the rare and controllable resources of uranium-235 or plutonium-239, once these new technologies are developed, they will be very difficult to regulate and easily accessible to small countries or even terrorist groups.

Moreover, these risks are currently underregulated, for a number of reasons. Protection against such risks is a global public good and thus undersupplied by the market. Implementation often requires cooperation among many governments, which adds political complexity. Due to the unprecedented nature of the risks, there is little or no previous experience from which to draw lessons and form policy. And the beneficiaries of preventative policy include people who have no sway over current political processes — our children and grandchildren.

Given the unpredictable nature of technological progress, development of these technologies may be unexpectedly rapid. A political reaction to these technologies only when they are already on the brink of development may therefore be too late. We need to implement prudent and proactive policy measures in the near future, even if no such breakthroughs currently appear imminent.

#### Maintaining sustainable use of outer space is key to future generations

**Islam 18** [Mohammad Saiful Islam, Mohammad works for the Institute of Advanced Judicial Studies and the Beijing Institute of Technology. 4-27-2018, "The Sustainable Use of Outer Space: Complications and Legal Challenges to the Peaceful Uses and Benefit of Humankind," Beijing Law Review, <https://www.scirp.org/journal/paperinformation.aspx?paperid=85201> accessed 12/12/21] Adam

4.2. Ensure the Rights of Future Generations in Outer Space

Sustainable development is the establishing principle for achieving present human needs without damaging the demands of future generations maintaining integrity and constancy of the natural systems. The modern idea of sustainable development is derived from the Brundtland Report in 1987. Generally considered in modern application and exploration of outer space, fundamental elements are the area must be dedicated to peaceful purposes; and the area must be preserved for future generations [(Heim, 1990)](https://www.scirp.org/journal/paperinformation.aspx?paperid=85201#ref17). It is an indispensable and inordinate challenge to confirm uphold the healthy environment and make sure development without destroying the rights of future generations in space. Article IX of The Outer Space Treaty provided, in the exploration and use of outer space, States should pursue studies and conduct exploration of outer space so as to avoid harmful contamination and also adverse changes in the environment of the Earth [(Outer Space Treaty, 1967)](https://www.scirp.org/journal/paperinformation.aspx?paperid=85201#ref35). The issues of what constitutes harmful contamination in Earth’s environment have yet to be interpreted. The legal definition of “adverse” and “harmful” will also modification as Earth, indigenous sciences progress, separately or in concert, with the planetary exploration space sciences [(Robinson, 2005)](https://www.scirp.org/journal/paperinformation.aspx?paperid=85201#ref38). As a result of multifaceted political, economic, scientific, technological, educational, and other global problems, there has been practicing exclusively only international cooperation for sustainable space development among the developed countries [(Noichim, 2005)](https://www.scirp.org/journal/paperinformation.aspx?paperid=85201#ref34). The space faring nations should promote a supportive environment for peaceful and sustainable use of space, decrease environmental effects on Earth and protect the terrestrial environment. We should escape a regime that will ultimately reflect the over-exploitation of resources and environmental havoc [(Fountain, 2002)](https://www.scirp.org/journal/paperinformation.aspx?paperid=85201#ref9).

## Case

### 1NC – AT: FW

#### Reducing existential risks is the top priority in any coherent moral theory

Plummer 15 (Theron, Philosophy @St. Andrews http://blog.practicalethics.ox.ac.uk/2015/05/moral-agreement-on-saving-the-world/)

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### Weigh magnitude times probability---“probability first” framing is rooted in psychological biases and leads to mass death

Clarke 08 [Lee, member of a National Academy of Science committee that considered decision-making models, Anschutz Distinguished Scholar at Princeton University, Fellow of AAAS, Professor Sociology (Rutgers), Ph.D. (SUNY), “Possibilistic Thinking: A New Conceptual Tool for Thinking about Extreme Events,” Fall, Social Research 75.3, JSTOR]

In scholarly work, the subfield of disasters is often seen as narrow. One reason for this is that a lot of scholarship on disasters is practically oriented, for obvious reasons, and the social sciences have a deep-seated suspicion of practical work. This is especially true in sociology. Tierney (2007b) has treated this topic at length, so there is no reason to repeat the point here. There is another, somewhat unappreciated reason that work on disaster is seen as narrow, a reason that holds some irony for the main thrust of my argument here: disasters are unusual and the social sciences are generally biased toward phenomena that are frequent. Methods textbooks caution against using case stud- ies as representative of anything, and articles in mainstreams journals that are not based on probability samples must issue similar obligatory caveats. The premise, itself narrow, is that the only way to be certain that we know something about the social world, and the only way to control for subjective influences in data acquisition, is to follow the tenets of probabilistic sampling. This view is a correlate of the central way of defining rational action and rational policy in academic work of all varieties and also in much practical work, which is to say in terms of probabilities. The irony is that probabilistic thinking has its own biases, which, if unacknowledged and uncorrected for, lead to a conceptual neglect of extreme events. This leaves us, as scholars, paying attention to disasters only when they happen and doing that makes the accumulation of good ideas about disaster vulnerable to issue-attention cycles (Birkland, 2007). These conceptual blinders lead to a neglect of disasters as "strategic research sites" (Merton, 1987), which results in learning less about disaster than we could and in missing opportunities to use disaster to learn about society (cf. Sorokin, 1942). We need new conceptual tools because of an upward trend in frequency and severity of disaster since 1970 (Perrow, 2007), and because of a growing intellectual attention to the idea of worst cases (Clarke, 2006b; Clarke, in press). For instance, the chief scientist in charge of studying earthquakes for the US Geological Service, Lucile Jones, has worked on the combination of events that could happen in California that would constitute a "give up scenario": a very long-shaking earthquake in southern California just when the Santa Anna winds are making everything dry and likely to burn. In such conditions, meaningful response to the fires would be impossible and recovery would take an extraordinarily long time. There are other similar pockets of scholarly interest in extreme events, some spurred by September 11 and many catalyzed by Katrina. The consequences of disasters are also becoming more severe, both in terms of lives lost and property damaged. People and their places are becoming more vulnerable. The most important reason that vulnerabilities are increasing is population concentration (Clarke, 2006b). This is a general phenomenon and includes, for example, flying in jumbo jets, working in tall buildings, and attending events in large capacity sports arenas. Considering disasters whose origin is a natural hazard, the specific cause of increased vulnerability is that people are moving to where hazards originate, and most especially to where the water is. In some places, this makes them vulnerable to hurricanes that can create devastating storm surges; in others it makes them vulnerable to earthquakes that can create tsunamis. In any case, the general problem is that people concentrate themselves in dangerous places, so when the hazard comes disasters are intensified. More than one-half of Florida's population lives within 20 miles of the sea. Additionally, Florida's population grows every year, along with increasing development along the coasts. The risk of exposure to a devastating hurricane is obviously high in Florida. No one should be surprised if during the next hurricane season Florida becomes the scene of great tragedy. The demographic pressures and attendant development are wide- spread. People are concentrating along the coasts of the United States, and, like Florida, this puts people at risk of water-related hazards. Or consider the Pacific Rim, the coastline down the west coasts of North and South America, south to Oceania, and then up the eastern coast- line of Asia. There the hazards are particularly threatening. Maps of population concentration around the Pacific Rim should be seen as target maps, because along those shorelines are some of the most active tectonic plates in the world. The 2004 Indonesian earthquake and tsunami, which killed at least 250,000 people, demonstrated the kind of damage that issues from the movement of tectonic plates. (Few in the United States recognize that there is a subduction zone just off the coast of Oregon and Washington that is quite similar to the one in Indonesia.) Additionally, volcanoes reside atop the meeting of tectonic plates; the typhoons that originate in the Pacific Ocean generate furiously fatal winds. Perrow (2007) has generalized the point about concentration, arguing not only that we increase vulnerabilities by increasing the breadth and depth of exposure to hazards but also by concentrating industrial facilities with catastrophic potential. Some of Perrow's most important examples concern chemical production facilities. These are facilities that bring together in a single place multiple stages of production used in the production of toxic substances. Key to Perrow's argument is that there is no technically necessary reason for such concentration, although there may be good economic reasons for it. The general point is that we can expect more disasters, whether their origins are "natural" or "technological." We can also expect more death and destruction from them. I predict we will continue to be poorly prepared to deal with disaster. People around the world were appalled with the incompetence of America's leaders and orga- nizations in the wake of Hurricanes Katrina and Rita. Day after day we watched people suffering unnecessarily. Leaders were slow to grasp the importance of the event. With a few notable exceptions, organi- zations lumbered to a late rescue. Setting aside our moral reaction to the official neglect, perhaps we ought to ask why we should have expected a competent response at all? Are US leaders and organiza- tions particularly attuned to the suffering of people in disasters? Is the political economy of the United States organized so that people, espe- cially poor people, are attended to quickly and effectively in noncri- sis situations? The answers to these questions are obvious. If social systems are not arranged to ensure people's well-being in normal times, there is no good reason to expect them to be so inclined in disastrous times. Still, if we are ever going to be reasonably well prepared to avoid or respond to the next Katrina-like event, we need to identify the barriers to effective thinking about, and effective response to, disas- ters. One of those barriers is that we do not have a set of concepts that would help us think rigorously about out-sized events. The chief toolkit of concepts that we have for thinking about important social events comes from probability theory. There are good reasons for this, as probability theory has obviously served social research well. Still, the toolkit is incomplete when it comes to extreme events, especially when it is used as a base whence to make normative judgments about what people, organizations, and governments should and should not do. As a complement to probabilistic thinking I propose that we need possibilistic thinking. In this paper I explicate the notion of possibilistic thinking. I first discuss the equation of probabilism with rationality in scholarly thought, followed by a section that shows the ubiquity of possibilis- tic thinking in everyday life. Demonstrating the latter will provide an opportunity to explore the limits of the probabilistic approach: that possibilistic thinking is widespread suggests it could be used more rigorously in social research. I will then address the most vexing prob- lem with advancing and employing possibilistic thinking: the prob- lem of infinite imagination. I argue that possibilism can be used with discipline, and that we can be smarter about responding to disasters by doing so.

#### The Undercommons is wrong - their re-tooling of the code gets coopted within the university

Webb, Darren. "Bolt-holes and breathing spaces in the system: On forms of academic resistance (or, can the university be a site of utopian possibility?)." Review of Education, Pedagogy, and Cultural Studies 40.2 (2018): 96-118. (Senior Lecturer in Education at the University of Sheffield)//Elmer

It is easy to be seduced by the language of the undercommons. Embodying and enacting it, however, is difficult indeed. Being within and against the university, refusing the call to order through insolent obstructive unprofessionalism, is almost impossible to sustain. Halberstam (2009, 45) describes the undercommons as “a marooned community of outcast thinkers who refuse, resist, and renege on the demands of rigor, excellence, and productivity.” A romantic and appealing notion for sure but **refusing and reneging on “the university of excellence” will cost you your job.** When Moten **describes subversion** as a “series of immanent upheavals” expressed through “vast repertoires of high-frequency complaints, imperceptible frowns, withering turns, silent sidesteps, and ever-vigilant attempts not to see and hear” (2008, 1743), **one is reminded instantly of Thomas Docherty, disciplined and suspended for his negative vibes.**7 Being with and for the maroon community is difficult too. First of all, “Where and how can we find/see the Undercommons at work?” (Ĉiĉigoj, Apostolou-Hölscher, and Rusham 2015, 265). Where and how can one find those liminal spaces of sabotage and subversion, and how does one occupy them in a spirit of hapticality, study, and militant arrhythmia that brings the utopic underground to the surface of the fierce and urgent now? Beautiful language, but how does one live it? Networks do, of course, exist—the Undercommoning Collective, the Edu-Factory Collective, the International Network for Alternative Academia, to name but a few. These are promising spaces for bringing together and harboring the maroons and the fugitives. But networks are typically **short-lived**, and—as Harney and Moten warned—**there is a danger of institutionalization, of taking institutional practices with you** into alternative spaces “**because we’ve been inside so much**” (Harney and Moten 2013, 148). And so, predictably, **meetings of the fugitives come with structure, order, an official agenda**, and circulated minutes. The outcasts convene in conventional academic conferences, with parallel sessions, panels of papers, lunch breaks, wine and nibbles (e.g., Edu-Factory 2012). These spaces offer time out, welcome respite, a breathing space, a trip abroad, and then one returns to work. If hapticality, the touch of the undercommons, is “a visceral register of experience … the feel that what is to come is here” (Bradley 2014, 129–130), then this seems elusive. It is hard to detect a sense of the utopic undercommons rising to the surface of the corporate-imperial university. Moten describes the call to disorder and to study as a way to “excavate new aesthetic, political, and economic dispositions” (Moten 2008, 1745). But this notion of excavating is highly problematic. It is common within the discourse of “everyday utopianism”—finding utopia in the everyday, recovering lost or repressed transcendence in “everydayness” (Gardiner 2006)—to describe the process of utopian recovery in terms of excavating: excavating repressed desires, submerged longings, suppressed histories, untapped possibilities. But the fundamental questions of where to dig and how to identify a utopian “find” are never adequately addressed (see Webb 2017). Gardiner defines utopia as “a series of forces, tendencies and possibilities that are immanent in the here and now, in the pragmatic activities of everyday life” (2006, 2). But how are these forces, tendencies and possibilities to be identified and recovered? For Harney and Moten, **it is through study, hapticality and militant arrhythmia**. These are slippy concepts, however, evading concrete material referents. What is it to inhabit the undercommons? Those who have written of their experiences refer to “small acts of marronage” such as poaching resources and redeploying them in ways at odds with the university’s designs and demands (Reddy 2016, 7), or exploiting funding streams “to form cracks in the institution that enable the Others to invade the university” (Smith, Dyke, and Hermes 2013, 150). For Adusei-Poku (2015), the undercommons is a space of refuge which is all about survival (2015, 4–5). We who feel homeless in the university are forced into refuge. We gather together to survive. We may gain satisfaction from small acts of marronage, but this is less about bringing the utopic common underground to the surface as it is a form of “radical escapism” (Adusei-Poku 2015, 4). Benveniste (2015, v) tells us that: “The undercommons has no set location and no return address. There is no map for entering and no guide for staying. The only condition is a living appetite. Listen to its hunger for difference.” We need more than poetry, however. And **we need more than a series of minor acts of resistance**. As Srnicek and Williams rightly emphasize, resistance is a defensive, reactive gesture, resisting against. Resistance is not a utopian endeavour: “We do not resist a new world into being” (Srnicek and Williams 2016, 47). The undercommons, when one can find it, is a bolt hole, a place of refuge, a breathing space in the system. We need something more. The occupation Can the occupied building operate as a site of utopian possibility within the corporate-imperial university? Reflections on, and theorizations of, two recent waves of occupation—“Occupied California” 2009–2010 and the UK Occupations 2010–2011—have answered this question affirmatively. The “occupation” should not be understood here as solely or necessarily “student occupation.” It goes without saying—though sadly so often does need saying —that “faculty also have a responsibility to fight with and for students” (Smeltzer and Hearn 2015, 356). Though led by a new historical subject, “the graduate without a future” (Schwarz-WeinStein 2015, 11), the importance of faculty support for the occupations was emphasized on both sides of the Atlantic (Research and Destroy 2010, 11; Dawson 2011, 112; Holmes and R&D and Dead Labour 2011, 14; Ismail 2011, 128; Newfield and EduFactory 2011, 26). Long before Occupy took shape in Zuccotti Park, “occupation” was being heralded as the harbinger of a new society and a new way of being. If we return to the notion of creating utopian spaces, the key aim for some of the occupiers was to create communes within the university walls—to communize space (Inoperative Committee 2011, 6).8 Communization here is understood as a form of insurrectionary anarchism that refuses to talk of a transition to communism, insisting instead upon the immediate formation of zones of activity removed from exchange, money, compulsory labor, and the impersonal domination of the commodity form (Anon 2010a, 5). As one pamphlet declared: We will take whatever measures are necessary both to destroy this world as quickly as possible and to create, here and now, the world we want: a world without wages, without bosses, without borders, without states. (Anon 2010d, 34) This is a revolutionary anarchism that takes the university campus as the site for a practice—communization—that not only prefigures but also realizes the vision of a free society. Heavily influenced by The Coming Insurrection (Invisible Committee 2009), but tapping into a long tradition of anarchist theory and practice from Hakim Bey’s Temporary Autonomous Zones (Bey 1985) to David Graeber’s Direct Action (Graeber 2009), occupation becomes “the creation of a momentary opening in capitalist time and space, a rearrangement that sketches the contours of a new society” (Research and Destroy 2010, 11). It is “an attempt to imagine a new kind of everyday life” (Hatherley 2011, 123). Firth (2012) refers to these momentary openings as critical, experimental utopias: Such utopias are … simultaneously immanent and prefigurative. They are immanent insofar as they allow space for the immediate expression of desires, satisfaction of needs and also the articulation of difference or dissent. They are prefigurative to the extent that they allow one to practice and exemplify what one would like to see at a more proliferative range in the future (26) The ultimate aim is for the practice to spread beyond the campus through a dual process of provocative rupture—the idea that insurrectionary moments can unleash the collective imagination and stimulate an outpouring of creativity that blows apart common sense and offers glimpses of a future world (Gibson-Graham 2006, 51; Shukaitis and Graeber 2007, 37)—and “contaminationism,” that is, spreading by means of example (Graeber 2009, 211). It may well have been the case that communism was realized on the campuses of Berkeley and UCL, that a momentary opening in capitalist space/time appeared through which another world could be glimpsed. The occupation, however—whether California, London, or anywhere else—is likely always to remain a localized temporary disruptive practice. A practice with utopian potency, for sure, in terms of suspending normalized forms of discipline and opening new egalitarian discursive spaces (Rheingans and Hollands 2013; Nişancioğlu and Pal 2016). In terms of wider systemic change, however, “small interventions consisting of relatively non-scalable actions are highly unlikely to ever be able to reorganise our socioeconomic system” (Srnicek and Williams 2016, 29). What “the occupation” demonstrates more than anything is the reality of the corporate-imperial university, as the institutional hierarchy, backed by the carceral power of the police and criminal justice system, inevitably disperses the occupiers—often using militarized force—and repossesses the occupied space in a strong assertion of its ownership rights not only to university buildings but also to what constitutes legitimate thought and behavior within them (on this see Docherty 2015, 90). The significance, and utopian potential, one attaches to campus occupations depends in part upon the significance one attaches to the university as a site of struggle. For the Edu-Factory Collective: As was the factory, so now is the university. Where once the factory was a paradigmatic site of struggle between workers and capitalists, so now the university is a key space of conflict, where the ownership of knowledge, the reproduction of the labour force, and the creation of social and cultural stratifications are all at stake. This is to say the university is not just another institution subject to sovereign and governmental controls, but a crucial site in which wider social struggles are won and lost. (Caffentzis and Federici 2011, 26) Clearly, if this is true, then the form the struggle takes, and the example it sets, is of immense significance. Srnicek and Williams describe as “wishful thinking” the idea that the occupation might spread beyond the campus by means of rupture or contamination (2016, 35). However, if the university really is a key site of class struggle (Seybold 2008, 120; Haiven and Khasnabish 2014, 38), a site through which wider struggles are refracted and won or lost, then the transformative potential of the occupation needs to be attended to seriously. The analysis of the university offered by the Edu-Factory Collective is, however, outdated. Sounding like Daniel Bell writing in 1973 about how universities had become the “axial structures” of post-industrial society (Bell 1973, 12), the analysis does not hold water today. Moten overdoes it when he tells us that “the university is a kind of corpse. It is dead. It’s a dead institutional body” (Moten 2015, 78). What is clear, however, is that “focusing on the university as a site of radical transformation is a mistake” (Holmes and R&D and Dead Labour 2011, 13). As has been widely noted, there is very little distinguishing universities from other for-profit corporations (Readings 1996; Lustig 2005; Washburn 2005; Shear 2008, Tuchman 2009). What does separate them is their inefficiency, due in large part to the fact that universities operate also as medieval guilds, with faculties “ruled by masters who lord over journeymen and apprentices in an artisanal system of production” (Jemielniak and Greenwood 2015, 77). If the university is a sinister hybrid monstrosity—part medieval guild, part criminal corporation—which has no role other than reproducing its own privilege, then no special status can be attributed to campus protests. In this case, “A free university in the midst of a capitalist society is like a reading room in a prison” (Research and Destroy 2010, 10). A reading room in a prison. Another apposite metaphor. The occupation is a safe space, offering temporary respite, a place to hide, a refuge, a bolt-hole, a breathing space. As with the utopian classroom and the undercommons, what the occupation suggests is that “defending small bunkers of autonomy against the onslaught of capitalism is the best that can be hoped for” (Srnicek and Williams 2016, 48). Conclusion Zaslove was right to characterize utopian pedagogy within the corporateimperial university as the search for bolt-holes and breathing spaces in the system. He himself suggests that, “All university classes should become dialogic-experiential models that educate by expanding the zones of contact with wider communities” (2007, 102). Like so many others, Zaslove sees dialogic-experiential models of education beginning in the classroom then expanding outward. The literature is full of references to “exceeding the limits of the university classroom” (Coté, Day, and de Peuter 2007a, 325), “extend [ing] beyond the boundaries of the campus” (Ruben 2000, 211), and “breeching the walls of the university compounds and spilling into the streets” (Research and Destroy 2010, 10). This all brings to mind Giroux’s notion of academics as border crossers (Giroux 1992), but it also paints a picture of academics taking as their starting point the university and from there crossing the border into the community and the street. The University can be the site for fleeting, transitory, small-scale experiences of utopian possibility—in the classroom, the undercommons, the occupation. It cannot be the site for transformative utopian politics. It cannot even be the starting point for this. Given the corporatization and militarization of the university, academics are increasingly becoming “functionaries of elite interests” inhabiting a culture which serves to reproduce these interests (Shear 2008, 56). Within the university, “radical” initiatives or movements will soon be co-opted, recuperated, commodified, and neutralized (Gibson-Graham 2006, xxvi; Seybold 2008, 123; Neary 2012b, 249; Rolfe 2013, 21). Institutional habitus weights so heavily that projects born in the university will be scarred from the outset by a certain colonizing “imaginary of education” (Burdick and Sandlin 2010, 117). And we have long known that the university is but one space of learning, and perhaps not a very important one at that.

#### ROB is to vote for the better debater. Only evaluating the consequences of the plan allows us to determine the practical impacts of politics and preserves the predictability that fosters engagement. Rigorous contestation and third and fourth-line testing are key to generate the self-reflexivity that creates ethical subjects arbitrarily excluding offense is bad and prevents in depth clash and engagement that allows for education which is the unique purpose of debate.

#### Prefer –

#### 1. Competition- The competitive nature of debate wrecks the interactive nature of debate – the judge must decide between two competing speech acts and the debaters are trying to beat each other – this is the wrong forum for interaction

#### 2. Spillover- How does educational orientations spill over beyond this space? Empirically denied – judges vote these types of affs all the time and nothing ever happens.

The Henderson evidence assumes theres a tradeoff between fighting settler colonialism in debate and other impacts which you haven’t justified plus theres no reason debate is key its just about general speech acts so out of round solves all of your impacts which means theres only a risk that we can rectify procedural fairness

#### Colonialism isn’t inevitable – your theory foreclose liberation and reify Settler Dominance

Busbridge 18—Research Fellow at the Centre for Dialogue, La Trobe University (Rachel, “Israel-Palestine and the Settler Colonial ‘Turn’: From Interpretation to Decolonization,” Theory, Culture & Society Vol 35, Issue 1, 2018, dml)//Re-cut by Elmer

The prescription for decolonisation—that is, a normative project committed to the liberation of the colonised and the overturning of colonial relationships of power (Kohn & McBride, 2011: 3)—is indeed one of the most counterhegemonic implications of the settler colonial paradigm as applied to IsraelPalestine, potentially shifting it from a diagnostic frame to a prognostic one which offers a ‘proposed solution to the problem, or at least a plan of attack’ (Benford & Snow, 2000: 616). What, however, does the settler colonial paradigm offer by way of envisioning decolonisation? As Veracini (2007) notes, while settler colonial studies scholars have sought to address the lack of attention paid to the experiences of Indigenous peoples in conventional historiographical accounts of decolonisation (which have mostly focused on settler independence and the loosening of ties to the ‘motherland’), there is nevertheless a ‘**narrative deficit**’ when it comes to **imagining settler decolonisation**. While Veracini (2007) relates this deficit to a matter of conceptualisation, it is apparent that the **structural perspective** of the paradigm in many ways **closes down possibilities** of **imagining the type of social** and **political transformation** to which the **notion of decolonisation aspires**. In this regard, there is a **worrying tendency** (if not **tautological discrepancy**) in settler colonial studies, where the **only solution to settler colonialism is decolonisation**—which a faithful adherence to the paradigm **renders largely unachievable**, if not **impossible**. To understand why this is the case, it is necessary to return to Wolfe’s (2013a: 257) account of settler colonialism as guided by a ‘zero-sum logic whereby settler societies, for all their internal complexities, uniformly require the elimination of Native alternatives’. The structuralism of this account has immense power as a means of mapping forms of injustice and indignity as well as strategies of resistance and refusal, and Wolfe is careful to show how transmutations of the logic of elimination are complex, variable, discontinuous and uneven. Yet, in seeking to elucidate the logic of elimination as the overarching historical force guiding settler-native relations there is an operational weakness in the theory, whereby such a logic is simply there, omnipresent and manifest even when (and perhaps especially when) it appears not to be; the settler colonial studies scholar need only read it into a situation or context. It thus **hurtles from the past** to the **present** into the **future**, never to be fully extinguished until the native is, or until history itself ends. There is thus a **powerful ontological** (if not metaphysical) **dimension** to Wolfe’s account, where there is such thing as a ‘**settler will**’ that **inherently desires the elimination of the native** and the distinction between the settler and native **can only ever be categorical**, founded as it is on the ‘primal binarism of the frontier’ (2013a: 258). It is here that the differences between earlier settler colonial scholarship on Israel-Palestine and the recent settler colonial turn come into clearest view. While Jamal Hilal’s (1976) Marxist account of the conflict, for instance, engaged Palestinians and Jewish Israelis in terms of their relations to the means of production, Wolfe’s account brings its own ontology: the bourgeoisie/proletariat distinction becomes that of settler/native, and the class struggle the struggle between settler, who seeks to **destroy** and **replace the native**, and native, who **can only ever push back**. Indeed, if the settler colonial paradigm views history in similar teleological terms to the Marxist framework, it **does not offer** the same hopeful vision of a liberated future. After all, settler colonialism has **only one story to tell**—‘either **total victory** or **total failure**’ (Veracini, 2007). Veracini’s attempt to disaggregate different forms of settler decolonisation is revealing of the difficulties that come along with this zero-sum perspective. It is significant to note that beyond settler evacuation (which may decolonise territory, he cautions, but not necessarily relationships) the picture he paints is a relatively bleak one. For Veracini (2011: 5), claims for decolonisation from Indigenous peoples in settler societies can take two broad forms: an ‘anticolonial rhetoric expressing a demand for indigenous sovereign independence and self-determination… and an “ultra”-colonial one that seeks a reconstituted partnership with the [settler state] and advocates a return to a relatively more respectful middle ground and “treaty” conditions’. While both, he suggests, are tempting strategies in the struggle for change, though ‘ultimately ineffective against settler colonial structures of domination’ (2011: 5), it is the latter strategy that invites Veracini’s most scathing assessment. As he writes, under settler colonial conditions the independent polity is the settler polity and sanctioning the equal rights of indigenous peoples has historically been used as a powerful weapon in the denial of indigenous entitlement and in the enactment of various forms of coercive assimilation. This decolonisation actually enhances the subjection of indigenous peoples… it is at best irrelevant and at worst detrimental to indigenous peoples in settler societies (2011: 6-7). The ‘primal binarism of the frontier’ plays a particularly ambivalent role in Veracini’s (2011: 6) formulation, where the categorical distinction between settler and native obstructs the ‘possibility of a genuinely decolonised relationship’ (by virtue of its lopsidedness) yet is a necessary political strategy to guard against the absorption of Indigenous people into the settler fold, which would represent settler colonialism’s final victory. The battle here is between a ‘settler colonialism [that] is designed to produce a fundamental discontinuity as its “logic of elimination” runs its course until it actually extinguishes the settler colonial relation’ and an anti-colonial struggle that ‘must aim to keep the settler-indigenous relationship going’ (2011: 7). In other words, the categorical distinction produced by the frontier must be maintained in order to struggle against its effects. Given the lack of options presented to Indigenous peoples by Veracini (2014: 315), his conclusion that settler decolonisation demands a ‘radical, post-settler colonial passage’ is perhaps not surprising – although he has ‘no suggestion as to how this may be achieved and [is] pessimistic about its feasibility’. Scholars have long reckoned with the ambivalence of the settler colonial situation, which is simultaneously colonial and postcolonial, colonising and decolonising (Curthoys, 1999: 288). Given the generally dreadful Fourth World circumstances facing many Indigenous peoples in settler societies, it could be argued that there is good reason for such pessimism. The settler colonial paradigm, in this sense, offers an important caution against celebratory narratives of progress. Wolfe (1994), it must be recalled, wrote the original articulation of his thesis precisely against the idea of ‘historical rupture’ that dominated in Australia post-Mabo, and was thus as much a scholarly intervention as it was a political challenge to the idea of Australia having broken with its colonial past. **Nonetheless**, the **fatalism** of the settler colonial paradigm—whereby decolonisation is by and large put beyond the realms of possibility—has seen it come under **considerable critique** for **reifying settler colonialism** as a transhistorical meta-structure where colonial relations of domination are **inevitable** (Macoun & Strakosch, 2013: 435; Snelgrove et al., 2014: 9). Not only does Wolfe’s ontology **erase contingency**, **heterogeneity** and (crucially) **agency** (Merlan, 1997; Rowse, 2014), but its polarised framework effectively ‘**puts politics to death**’ (Svirsky, 2014: 327). In response to such critiques, Wolfe (2013a: 213) suggests that ‘the repudiation of binarism’ may just represent a ‘settler perspective’. However, as Elizabeth Povinelli (1997: 22) has astutely shown, it is in this regard that the **totalising logic** of Wolfe’s structure of invasion **rests on a disciplinary gesture** where ‘**any discussion** which **does not insist** on the polarity of the [settler] colonial project’ is **assimilationist**, worse still, **genocidal** in effect if not intent. **Any attempt** to ‘explore the **dialogical** or **hybrid nature** of colonial subjectivity’—which would entail **working beyond the bounds of absolute polarity**—is **disciplined as complicit** in the settler colonial project itself, leaving ‘the **only nonassimilationist position** one that **adheres strictly** and **solely** to a **critique** of [settler] state discourse’. This gesture not only **disallows the possibility of counter-publics** and **strategic alliances** (even limited ones), but also **comes dangerously close** to ‘**resistance as acquiescence**’ insofar as the settler colonial studies scholar may **malign the structures set in play** by settler colonialism, but only from a safe distance unsullied by the messiness of ambivalences and contradictions of settler and Native subjectivities and relations. Opposition is thus left as our only option, but, as we know from critical anti-colonial and postcolonial scholarship, opposition in itself is not decolonisation.

#### Settler-colonialism is a sum of many injustices---alt fails, links are wrong, and no root cause

--binary doesn’t account for things about identity, what happens to someone half white and half black

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Notice how different Villoro’s starting point is from the usual theoretical, abstract, and global in scope approach of the decolonial turn. As a reaction to the hegemonic Eurocentric paradigms that disguise injustices under the assumption of a universal or objective point of view, decolonial thinking has stressed that our knowledge is always situated, but situated where? The context in which knowledge is situated, as well as of the injustices they aim to diagnose, are often described as power structures (global hierarchies) 14. “Only when we have the life experience [vivencia] that a direct harm suffered in a relation with others have no justification, do we have a clear perception of injustice” Villoro, Los retos de la sociedad por venir, 19 (my translation). 15. Ibid., 22. Villoro starts with a general phenomenological description of these experiences as harmful and intrinsically connected to awareness of one’s identity and living in a power relation with others. Villoro claims that the immediate experiences of injustice is experienced as an exclusion or harm that quickly turns into an awareness that it may be caused by acts or omissions of others. 16. His approach led him to critique the way the West has universalized a particular conception of humans, rights, and justice. In Los retos de la sociedad por venir he argues that if any positive and regulative conception of what is the just social order and what are the basic human rights must emerge and be grounded in trying to ameliorate experiences of injustice, then we cannot assume that the circumstances of exclusion are the same everywhere and at all times. According to Villoro, the doctrine of human rights was formulated in a particular place and exact date: the result of the European bourgeoisie experiencing exclusion in the eighteenth century. In many countries like Mexico, the expereince of exclusion is very different: the desired individual freedom cannot be exercised without other conditions such as food, housing, health, education, and membership in a community. If we are really serious about coming up with a theory of basic rights for all societies, then we need to start with an honest and thorough inquiry into all corners of the world about what exclusions are experienced so that we can determine what actual rights are needed. The Limitations and Dangers of Decolonial Philosophies located in a geopolitical context (in a world-system).17 They prescribe that Latin Americans think from a particular historical and social reality, but this is understood as seeing oneself in the periphery of a global order. The tendency among decolonialists to favor this theoretical starting point and to gravitate toward global views of injustice comes from the influence of world-system and dependency theory analysis in economics. However, a key influence, not often recognized, is a general way of thinking about problems of injustice that is, ironically, European in origin. There is a long tradition of sociopolitical thought in Europe whose starting point is the injustices of society at large that have a history and persist through time, and where the task of political philosophy is to detect and diagnose the presence of these historical injustices in particular situations of injustice. For example, critical theory today has inherited an approach to social philosophy characteristic of the European tradition that goes back to Rousseau, Marx, Weber, Freud, Marcuse, and others. According to Roberto Frega, this tradition takes society to be intrinsically sick with a malaise that requires adopting a critical historical stance in order to understand how the systematic sickness affects present social situations. In other words, this approach assumes that: A philosophical critique of specific social situations can be accomplished only under the assumption of a broader and full blown critique of society in its entirety: as a critique of capitalism, of modernity, of western civilization, of rationality itself. The idea of social pathology becomes intelligible only against the background of a philosophy of history or of an anthropology of decline, according to which the distortions of actual social life are but the inevitable consequence of longstanding historical processes.18 For decolonialists the sickness that afflicts Latin America is the global hegemony—economic, military, political, and cultural—of the West, first via Europe and then the United States, broadcast under the philosophy of the Enlightenment with Europe carrying the mission. As Vallega explains, “Latin America suffered and continues to suffer under western hegemonic modernity and its system of power and knowledge.”19 Villoro believed that at the turn of the twentieth century one of the modern ideas we inherited that must be questioned is “global explanations” because “general ideologies tend to slip into totalitarianism in our thinking.”20 17. For an excellent article that explains the influence of world system and dependency theory on this movement see Grosfoguel, “The Epistemic Decolonial Turn.” 18. Frega, “Between Pragmatism and Critical Theory,” 6. 19. Vallega, Latin American Philosophy from Identity to Radical Exteriority, 3. 20. Villoro, “Filosofia para un fin de epoca,” my translation. Gregory Fernando Pappas I think Villoro’s reservations are warranted and can be extended to decolonial thought. Granted, a theory of grand historical evil and systematic sickness in the Americas can have great explanatory power and provide theoretical comfort,21 but where are we standing when we start with such large historical metanarratives? How is it this not a God’s-eye view of history? Is there a danger of slipping back into a form of universalism, which they have explicitly avoided? Isn’t there a danger that when a theory explains so much it becomes nonfalsifiable and therefore nonempirical? In any case, the quest for a comprehensive explanation and a grand historical narrative is also in danger of not capturing the historical and concrete particularity (pluralism, complexity, uniqueness) of actual injustices. When we start at the broad level of globality and history as decolonialists often do, there is a risk of oversimplifying and encouraging blindness about concrete injustices. Consulting recent rigorous research done by historians and social anthropologist about Latin America (more on this later) confirms what many know from simply living there: most injustices in different parts of the Americas are so complex that any simple explanation merits the suspicion of being wishful thinking. To be fair, compared to Marxism the decolonial turn added complexity and made a significant shift. Marxism as a tool was not sensitive enough to the realities on the ground in Latin America. It was a universal model that did not adequately address its particular problems. However, decolonialists do not seem to have abandoned or questioned a similar methodological starting point. As a result, decolonial theories may sometimes be presented with the same pretension of offering a universal diagnosis of the complex and tragic problems of Latin America. Perhaps a more pluralistic and context-sensitive approach could avoid some of the dangers I have presented. Here is where the contrast with Villoro is useful. To be sure, Villoro was critical of the same things as the decolonialists: the Eurocentric narrative, modernity, liberalism, and so on. However, when he takes a reflective historical perspective about these large historical and lumpy categories there is a difference in how he does it. He anchors his account in his local present situation, is very specific about what particular aspects of modernity or liberalism are problematic, and does not have one preferred category of analysis such as coloniality. For most decolonial theorists, however, the legacy of colonialism is central (understood broadly as coloniality), and the situation of the oppressed is to be analyzed in relation to a global narrative in which Europe is at its center or in relation to modernity or a global capitalist system. The decolonial project is centered 21. For recent excellent work that demonstrates this see Mendieta, Decolonizing Epistemologies; Mignolo, Local Histories/Global Designs; Moraña, Dussel, and Jauregui, Coloniality at Large. The Limitations and Dangers of Decolonial Philosophies on detecting plural manifestations of the single evolving domination (a social pathology) that started in 1492. Liberation is understood as decolonization via undoing “the coloniality of power” and affirming what has been “conceal[ed] by the Western modern epistemic hegemony.”22 In contrast, at the center of Villoro’s approach is liberation from domination, and the causes of domination are plural and contextual and therefore too complex to be articulated or framed by a global theory of domination. For Villoro liberation is a local event; one of its tools is to sometimes take a global perspective, and the complexity of the problems on the ground may not be fully captured by even our best academic global historical narratives and categories. He inquired into the history of a systematic injustice in order to facilitate inquiry into the present unique, context-bound injustice. If injustice is an illness then Villoro’s approach takes as its main focus diagnosing and treating the particular present illness, i.e., the particular injustice in a corner of Mexico, and not a global “social pathology” or some single transhistorical source of injustice. As concepts and categories, global hierarchies, white supremacy, and coloniality can be great tools that can have planetary significance. One could even argue that they pick out much-larger areas of people’s lives and injustices than the categories of class and gender. However, in spite of their reach and explanatory theoretical value they are nothing more than tools to make reference to and ameliorate particular injustices experienced (suffered) in the midst of a particular and unique relationship in a situation. Why is this important? In present situations (events) of injustice in the Americas there are not only intersecting histories of white supremacy, capitalist exploitation, and patriarchy; there are also unique events, multiple countries with different complex histories and present circumstances, as well as a variety of responsible agents—local and international governments, corporations, particular individuals and communities. Regardless of how much a theory of global domination that centers on coloniality can actually explain, it is reasonable to worry about what it leaves out and question the extent to which it really helps those who are victims of injustice. A wider net may bring more fish from the ocean, but I am not sure this applies to injustices. Such theories may lead to analysis or diagnosis that while true at some level, may actually have very little to offer in terms of more specific diagnoses and solutions that can be of any help to someone suffering an injustice. However, for Mignolo coloniality is “the underlying logic of the foundation and unfolding of Western civilization from the Renaissance to today”23 Coloniality helps explain how race and gender became the basis of classification in the Americas, but it remains an open question how these categories actually operate in particular countries or even in particular unjust events. We can say all we want that the oppressed live in power structures located in global hierarchies and a world-system, but that does not fully capture where they are. However useful and true that account may be about someone’s particular circumstances, it is still overabstracted. Knowing how people have been classified according to a colonial matrix of power is important, but only insofar as it may help us inquire about the present actual causes of an injustice. Moreover, it is not obvious how the use of a single name and the prism of a single cause helps in trying to ameliorate the particular and context-specific evils from which particular countries and people in Latin America suffer. One could reply that my worries are misplaced. Calling decolonization the cure may suggest that coloniality is some sort of single homogeneous cause, but the decolonialists have distinguished between different types of coloniality and have included in their diagnosis a plurality of causes such as exploitation of resources, political manipulation, and assimilation of people from other cultures. If this is the case then why not address these more particular evils, unless one is really committed to some unitary account in which all of these evils can be reduced to a singular cause?

#### Their framing of settler colonialism as a structure is ahistorical and problematic – it’s essentialist—turns the alt

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I’d like to re-frame my critique of the constraints of settler colonialism with the twelve little women in mind. I am going to try to show that a certain analytic within the studies has, however unwittingly, foreclosed and even chilled understandings of Black and Indigenous histories and identities in ways that derail our understandings of U.S. imperialism as a social formation and so our work with one another. One of the consequences of this goes to our ability to think through how #BlackLivesMatter, #SayHerName, #NoDAPL, and #MMIW are co-generative — even as I recognize the reasons why each of these movements have at different times demanded we respect their particularity. Drawing from Marxist structuralism, Patrick Wolfe defines the settler colonial society through two key differentiations. The first is between the structure and the event of invasion. Wolfe maintains that the permanence of invasion distinguishes the structure of a settler society, which originates with the withdrawal of the empire and the rise to power of a land-holding class who always intended to stay. Wolfe defines the ideology that cements this structure together as the logic of elimination. ]The settler exploits Indigenous labor but more importantly seeks to eliminate all vestiges of Indigenous land claims by the elimination of Indigenous cultures and identities. The quickest way I can explain my concerns with Wolfe’s definition is to mark how it rearticulates the problematics of structuralism. It treats society as a fixed, coherent thing that can be objectively described. The descriptions are simultaneously over‑determined by the historical event of the empire’s withdrawal and the exceptionalism of a permanent invasion. We’ve been in this trouble before – we know structuralism generates all kinds of ahistorical and apolitical problems, not to mention essentialisms, even as it is conditioned by the intersectionalities of originary events and political identities. For instance, Lorenzo Veracini argues that settler colonialism is “characterized by a settler capacity to control the population economy” as a marker of sovereignty and that this situation is “associated with a particular state of mind” and “narrative form” so powerful that “the possibility of ultimately discontinuing/decolonizing settler colonial forms remains problematic.” Veracini maintains that “settlers do not discover: they carry their sovereignty and lifestyles with them. As they move towards what amounts to a representation of the world, as they transform the land into their image, they settle another place without really moving.” I would argue that the settler colonial is a contested and unstable concept. Drawing from critical Indigenous, race, and feminist approaches — such as those developed by Jodi Byrd, Mishuana Goeman, Jennifer Denetdale, and Elle-Máijá Tailfeathers — that understand colonialism, racism, sexism, and homophobia as permanent features of U.S. society, I would argue that society is not an objectively settled structure to be described, nor an imaginary that travels as an integral whole around the world. It is a set of contested meanings caught up in struggles over power and knowledge. And resistance is most certainly not futile.

The second differentiation on which Wolfe’s settler colonialism rests is between the settler and the Indigenous. While many assume the settler to be white – and perhaps more so to be a white heterosexual male – Wolfe, Veracini, and others characterize the settler as both white and all other non-Indigenous people irrespective of gender and sexuality. Pressed on the politics of such characterizations, particularly of figuring Blacks as settlers, Wolfe explains: Willingly or not, enslaved or not, at the point of a run or not, they arrived as part of the settler-colonial project. That doesn’t make them settlers in the same sense as the colonizers who coerced them to participate—of course not—but it does make them perforce part of the settler-colonial process of dispossession and elimination. — Patrick Wolfe (2012) As the work of Circe Sturm, Tiya Miles, Sharon Patricia Holland, and so many others have demonstrated, Black and Indigenous histories and identities (not necessarily distinct) are intersectional messes of racialized and gendered contestation over and within the ongoing colonial forces of U.S. imperialism. We need their analyses to understand these histories and identities and the ways we have inherited them. We need to be careful about grouping all racial, ethnic, diaspora, and immigrant communities in with settlers and pitting them and their presumably shared struggles for civil rights against Indigenous sovereignty and territorial claims. The kinds of polemics that result are not helpful. What if reparations and return are not antithetical political objectives? Who decides their antithesis?