## 1NC

### T

#### Proscribing “appropriation” requires the aff to prohibit ownership in outer space

Reinstein 99

Ezra J. Reinstein (JD, Associate at Kirkland & Ellis), Owning Outer Space, 20 Nw. J. Int'l L. & Bus. 59 (1999). JDN. https://scholarlycommons.law.northwestern.edu/njilb/vol20/iss1/7

IV. PROPOSAL: APPROPRIATIVE OWNERSHIP OF REAL PROPERTY

The ideal legal regime should create maximum incentives for efficient development of space, in recognition of the fact that the potential wealth in space will not drop into our laps.

But as much as commercial development of space would benefit all mankind, it is just as important that the development be controlled. We must learn from mistakes of the past. Any legal regime should guard against inefficient exploitation, waste, and environmental despoliation. Furthermore, space should not become the next Wild West. Destruction and sabotage must be discouraged.

My proposal, which will be developed throughout this essay, is to maximize incentives by giving developers comprehensive property rights. Humanity's welfare demands that we alter the current law to allow real estate ownership -- not just usufructary rights -- to those who would best develop land in space.7 The potential wealth of outer space, in the form of minerals, energy, living space, etc., doesn't do us any good unless we are able to harness it. And, as Jeffrey Kargel, a planetary scientist at the U.S. Geological Survey, has written, "if you want to cross the bridge into the 21st century of space [development], then space must pay its way and give private investors a handsome early return on investment.' 75

What do we mean by "ownership?" Property is commonly recognized as being a "bundle" of disparate rights regulating relations between people with respect to things. The bundle of rights can be unpacked. It includes: the right to possess, the right to use, the right to exclude, and the right to transfer.76 These rights are not on/off affairs; they can each be limited or expanded along a continuum. I use the term "ownership" to describe a state of affairs wherein a person has **all four** of these rights **to their maximum extent** with respect to a piece of property.

Current space law ostensibly respects the right to use real property in space and to collect and own its fruits. Historically, this has been known as the usufructary right.77 But the current law doesn't even provide this right freely; it seems to be limited by several clauses of the Outer Space Treaty (e.g. use "for the benefit...of all countries").78

Nor does the OST recognize the right to exclude, as is evidenced by article I's prohibition on appropriating what it recognizes as being "the province of all mankind," the guarantee in the same article of "free access to all areas of celestial bodies," and article XII's requirement that "[a]ll stations [and] installations...shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity." Likewise, as illuminated in the SpaceCorp hypothetical, **the prohibition on appropriation seems to negate a long-term right of possession.** Without the right to exclude or possess, of course, a legal system need not provide the right to transfer real estate. Anyone else may simply help themselves. In sum, the OST demands that "[n]o State can obtain such possessions as will entitle it to claim ownership or sovereignty over them... There can be no exclusive appropriation of [celestial bodies] and any part thereof as a result of their 'use'..." 79 Under current law, **space cannot be owned.**

#### They violate—they clarify the plan as “endors[ing] the unimaginable desires of queerness.” Don’t read the plan in a vacuum—the very next line of the aff provides clarifying details demonstrating that they use the word “appropriation” in the advocacy in a vague and metaphorical way.

#### 1. Limits—Space is an extremely broad topic area and just small sub-sets of it have been the focus of year-long debate topics in policy at both the high school and college level. Letting the aff engage generally with anything in the area of space is severely underlimiting, and only narrow focus on non-appropriation as a term of art in the lit maintains clear constrains securing neg ground and ability to engage, which is key to fairness and education.

#### 2. It turns critical engagement—Understanding property rights in space requires a clear theory of appropriation, even if you’re critiquing them

Van der Vossen 9

Bas van der Vossen (Professor of Philosophy, University of Arizona). “What counts as original appropriation?” Politics Philosophy & Economics, 8: 355. 2009. JDN. <https://philarchive.org/archive/VANWCA>

This is clearly an important task. A main and intuitively attractive line of thinking in political philosophy is discredited by the attack on original acquisition. Indeed, the idea that there can be acts of original appropriation is caught in a remarkable limbo. Almost everyone believes that it must be possible for people to appropriate things that are unowned. In addition, it does seem very plausible to say that we have property rights over something we obtain via a legitimate transfer if the previous owner of that thing had an untainted property right over it herself.6 Yet at the same time, consensus among philosophers now has it that there can be no such acts. But **without an account of original appropriation**, any theorist of property rights has a serious problem. Original appropriation is not just something from a fanciful past. Unowned things are appropriated all of the time. Moreover, there may (will) even arise entirely new questions of original appropriation, perhaps in Antarctica, on the moon, or on Mars, and perhaps in the form of new kinds of property. So we had better be prepared. As Nozick rightly pointed out: ‘**it is not only persons favoring private property who need a theory of how property rights** legitimately **originate’**.7

#### 3. TVA—the aff could affirm the common heritage principle, which would meet my interp

Oduntan 5

Gbenga Oduntan (Lecturer in Law, Canterbury Christ Church University College, England; Legal Adviser to the Nigerian Government and Member, United Nations Nigerian/Cameroon Mixed Sub-Commission on the Demarcation of the Boundary between Nigeria and Cameroon) Imagine There Are No Possessions: Legal and Moral Basis Of The Common Heritage Principle In Space Law. Manchester Journal of International Economic Law, 2 (1). pp. 30-59. ISSN 1742-3945. 2005. JDN. https://kar.kent.ac.uk/1767/1/Imagine%2520There%2520are%2520No%2520Possessions.pdf

Such arguments as raised in the seven points delineated above may appear to be formidable and are indeed quite capable of attracting scholarly sympathy but again the correct view is that they are nonetheless insufficient. The arguments certainly do not justify any legal reasoning that limits the operation of the CHM principle in outer space in such a manner as to permit national or private appropriation and to recognise extensive property rights in space. Suggestions that sovereignty be introduced into outer space through a loose interpretation of the CHM principle or in any other form whatsoever is a form of legal heresy and should be dismissed for the following reasons.

In the first place it is **merely mischievous** to overstate the obscurity of meaning shrouding the term CHM. Doing so is clearly an undisguised attempt to avoid the legal validity of the CHM principle. Indeed it may be said with a lot of credence that **specific semantic certainty has been afforded to this term** in the works of many authors. R.P. Arnold impressively achieves this when he stated as follows:

“The word heritage suggests property or interests which are reserved to a person by reason of birth, something handed down from one's ancestors or the past. In defining mankind, it is necessary to make a distinction between mankind and man. Mankind refers to the collective group, whereas man refers to individual men and women…Mankind is not yet unified under one government, therefore the collective entity of mankind is represented by the various nations of the world. Thus the exercise of rights to the common heritage of mankind appertains to nations, representing mankind, and not individuals. The use of the phrase common heritage of mankind implies or **prescribes worldwide ownership**...46”

Furthermore, due to the fact that the primary subjects of international law are independent states, it is logical that they should decide together and as a singular community, inclusive of all, fundamental matters that concern all. This is, therefore, what is legalistically referred to as mankind.47 It has, therefore, become possible to identify some basic elements of the CHM principle:

(a) That the areas constituting a CHM cannot be subject to appropriation.

(b) That the use of such area and the resources thereof shall be subject to a common management system.

(c) That the concept in question implies an active sharing of the benefits derived from the exploration and exploitation of those areas;

(d) That the area be used exclusively for peaceful purposes;

(e) That the area be preserved for future generations in perpetual succession.48

In the light of these definitions and assertions **it is highly unlikely that any** possible **interpretation** of the CHM principle **allows for property rights in space.** The allegation that the existing space treaties recognise exploitation of outer space through the provisions permitting space exploration is yet another unsuccessful attempt to befuddle issues. The answer to this is that there is a **clear separation** in space law between the issue of the use of outer space resources in outer space for scientific experimentation on the one hand and that of exploitation or mining of outer space based resources with a view to repatriating the resources to earth for economic and monetary gain, on the other hand. Regarding the utilisation of space based resources in outer space itself there is little room for controversy. The reasonable use doctrine has been established in Space Law. The Moon Agreement in Article 6 (2) for instance, permits the usage of minerals and other substances of the Moon in quantities appropriate for the support of their missions. This very much falls short of permitting mining for purely monetary gains. Furthermore as will be later elaborated upon, the right to collect and remove substances and minerals from the moon is limited to "... scientific investigations and in furtherance of the provisions of the agreement" (Article 6 (2) Moon Agreement 1979). The phrase "in furtherance of the provisions of this agreement" covers many things. This includes of course the obligation to have due regard to interests of present and future generations as well as the need to promote higher standards of living and conditions of economic and social progress and development in accordance with the Charter of the United Nations (Article 4, Moon Agreement (1979).

#### That would allow you to discuss the broader ethical principles behind policy without needing to engage in direct political action

Noyes 11

John E. Noyes (the Roger J. Traynor Professor of Law, California Western School of Law). “The Common Heritage of Mankind: Past, Present, and Future.” 40 Denv. J. Int'l L. & Pol'y 447 (2011). JDN. <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1156&context=djilp>

IV. IMPLEMENTING THE **COMMON HERITAGE PRINCIPLE** IN TREATY LAW

**Legal principles have value even if left in general terms.** Indeed, it is not always desirable to convert broad principles into more concrete or determinate rules. Principles of international law57 may fill gaps in rules and provide decision makers with a guiding mindset - a reminder of basic objectives of the law - when they interpret or apply rules. Principles, when applied in good faith, also allow for, in David Caron's words, "diversity within convergence."5 8 That is, they may accord different states discretion to pursue a common objective in different ways, in line with particular domestic political and legal arrangements. **A** legal **principle need not be incorporated in** treaty **law** in order **to have significance.** Indeed, even as soft law, political concept, or "emerging customary international law," a principle may be used to influence debates and shape legal developments.

#### T is a voting issue—the advocacy is the stasis of the debate and it’s too late to redo after the 1AR shifts. Use competing interps to avoid arbritrariness and judge intervention.

### 2 - DA – Hyperreal Polarization

#### Proposing and engaging with modest political changes isn’t faith in liberal progress or Enlightenment subjectivity—rather, it’s an antagonistic misinterpellation to expose the system’s fatal flaws—that’s key to radically upend liberalism’s foundational assumptions by turning the system against itself.

Martel 16

James R. Martel, Professor of Political Science—SFSU, PhD-Poli Sci from Berkeley, The radical kernel of the Haitian Revolution: A case study of Misinterpellation, May 19, 2016, http://www.essaydocs.org/the-radical-kernel-of-the-haitian-revolution-a-case-study-of-m.html

What for Toussaint is a complex engagement with ideas of freedom and equality, a love hate relationship with France and the enlightenment, is for the ex-slaves boiled down to a simple premise; their refusal, at all costs, to be reinslaved. With such a denuded and basic conviction as the anchor for the entire spectrum of their resistance, the ex slaves’ engagement with phantasm is necessarily also more limited; the ex-slave population as a whole therefore proved itself to be much less persuaded by the blandishments of enlightenment thought than Toussaint himself. And the experience of slavery more generally resists liberal notions of freedom. An exploited wage earner may (often does) consider herself to be free. A slave knows that she is not. When abstract notions like freedom became simply the fact of not being a slave, of tilling one’s own land without a master, there is no longer much space for ideology or phantasm. And this simplicity, this denuding of rights to the point where it is no longer totalizing and determinant (so that it is not a “hesitation” as with Toussaint but a full throttled subversion in their case) can spread, as we already saw, from the colony to the metropole. Here, the radical, largely phantasm proof kernel of Haitian radicalism was exported to other contexts, other revolutions. As we have seen, James tells us that it is the experience of the slave uprising in Haiti that helped to radicalize the masses in France. After they witnessed the experience of the slaves in Haiti, when the idea of freedom became as tangible, as legible as casting off of actual chains, the Parisian masses were able to subvert their own phantasms, similarly using a notion of freedom that was not really intended for them as a means to upend their own subservience to liberal ideology. And, of course, the French revolution went on to become the revolution, the model for leftist uprisings (and even not so left ones) ever since, hence smuggling the Haitian revolution’s radicalism in a new and “universal” (because French) guise. By showing how a false right like freedom can be the basis for its own resistance, for producing, if not “authentic” and “true” freedom then at least a freedom that serves, a freedom that is not part of the intentions of phantasmic capitalism, the slaves of Haiti show us all not only that it is possible to subvert idolatry through misinterpellation but further that it has been done, not just in small individual moments (something that Benjamin informs us happens all the time, at every moment) but in a widespread and collective movement that changed the whole world. In order to conclude, let me briefly discuss a few political implications of this idea of misinterpellation. One idea I’d like to stress is how this reading differs (maybe for obvious reasons) from general liberal views on the question of rights and callings. Although Francis Fukuyama’s “End of History” has been widely debunked (these days, it certainly doesn’t feel like history has ended or will end anytime soon), a lingering effect of this theory, which is actually quite central to liberalism’s own self conceit, is that liberalism has basically resolved the world’s problems and that it is only lingering prejudice that leads to its imperfect application. We can see therefore that a liberal reader would deny the function of misinterpellation in favor of saying something like “although the framers of these rights may not have intended for these rights to be applied to non western, non white people (or, alternatively, only to men, or to the upper classes) the rights themselves held an inherent power that, over time, overcame the narrow prejudices of the authors, allowing them to come to their fullest expression.” In this reading, the problem is not with liberal notions of rights but only with their application. It is not a question of who is called, or when, the right itself has a universal basis and application so no one that hears the call hears it wrongly. Thus, this argument concludes, it is no accident of misinterpellation, but only the process of time is required to complete what is inherent in the rights themselves. Turning to a notion of misinterpellation thus offers an alternative explanation to liberalism’s own self-understanding. Change comes, in this (my own) view not from the successes of liberalism but its failures; insofar as liberalism’s own norms and rights are saturated through and through with questions of domination and exploitation, resistance comes not from the innate righteousness of liberal rights but rather from the way they sometimes misfire and are misheard, misread, and misunderstood. In this view, the “right” in question is rotten to the core. There is nothing universal about it; there is no universal at all**.** No passage of time would lead it to a fuller expression; there is no built in process by which it is extended to other people and nothing is inevitable about any extension or complication of the concept of rights. Instead, it is the expectation that these rights produce in unintended populations, and the rage and reaction that occurs when it becomes clear that such expectations are misplaced, that creates something else, a new kind of “right,” that comes from the contingent and agonic struggle of subject peoples. Another question worth spending time on is whether the idea of misinterpellation diminishes the agency and intention of the people who engage with it.. The question to ask here is aren’t a colonized or subjected people capable of recognizing on their own that their condition is unjust? Doesn’t it reduplicate the marginalization of a community to suggest that their own movement towards freedom comes only through a form of misunderstanding, an act of misinterpellation? Does that in turn suggest that people are doomed to being dominated unless and until such a moment as their colonial or economic masters makes some kind of critical error, some lucky accident that sets things into motion? To argue such both trivializes the role of the revolutionary communities I am speaking of as well as suggests a kind of inevitability that is itself part of how liberal capitalism continues to operate (that is, its own projected sense of invulnerability and irresistibility is part of how it keeps itself relatively invulnerable and irresistible). Clearly, when a community is first confronted by a would-be conquerer, its response is to fight back as did every community in the world that came under first the threat and then the rule of liberal capital imperialism. This resistance did not end with effective conquest but continued in varying degrees of intensity for the duration of colonialism (and on into its afterlife as neocolonialism); the history of liberal capital domination is marked by continual uprising, revolt and resistance in forms both overt and more subtle. But with a few important exceptions—the case of Haiti being perhaps the paradigmatic one—violent resistance to colonialism and other forms of oppression didn’t generally amount to getting rid of domination itself. Often resistance itself became a justification for further colonialism (and sadly, the same can be said for neo colonial forms of domination). Just as critically (if not more), as Frantz Fanon explains so clearly in The Wretched of the Earth, colonialism produced a kind of “unreality,” its own series of phantasms that created authority and subjectivity (with subjectivity having its double sense as creating self-conscious individuals and also individuals who are subjected to some form of domination or rule). Thus, there is a psychology to colonialism, a kind of subjectivity that is complicated by its own relationship to reality, to normativity, and to the means of power and authority. It is this element, what Fanon calls “a massive psychoexistential complex,” that misinterpellation interrupts. To do so does not reveal the “truth” behind the phantasm so much as disrupt the phantasm from within. Misinterpellation, once again, does not come from “outside” the arena of liberal capitalist domination. It is an internal phenomenon but, for that very reason, a very powerful and radical one. Furtherrmore, I don’t want to rule out other sources of resistance either; misinterpellation may not tell the whole story but it surely tells part of it (an important part, I’d argue). And there are other and more recent examples of misinterpellation I could turn to as well that do not involve a western master. In the case of the Arab Spring, for example, we could read Mohamed Bouazizi’s act of self immolation as leading to a widespread, and fortuitous, case of misinterpellation. It is doubtful that Bouazizi’s act was anything other than an act of despair, a protest against his own immiseration and degradation at the hands of the state and the market. But his act was read by millions as a call to revolution, a call which was answered (and continues to be answered) decisively. Finally, and very briefly, I’d like to talk about the connection between misinterpellation and anarchism. In my view, anarchism involves the recuperation of local decisions, actions and politics that are eclipsed and denuded by the archaism—in our time anyway-- of liberal capitalism. Another parable by Kafka might help to explain this. Kafka’s story “The City Coat of Arms” describes the attempt to build the tower of Babel. While people schemed about the heights and majesty of the tower, they built an entire city around the circumference of the imagined building. Of course the tower never got built—it was pure phantasm. But in the meantime a real city emerged, a circular city with an absent center. In my view, this perfectly describes our situation both during the Haitian revolution and today. The empty tower is the false rights, the dreams and phantasms of international liberal capitalism. The city at its periphery is the life we are actually living, the local decisions and so forth that we make all the time and which we erroneously believe are oriented for the sake of sovereignty and other archisms. Misinterpellation, in my view, exposes, however temporarily the non-existence of the tower and, by extension, the presence of the circle shaped city at its feet. It allows us to recuperate a sense of what we are doing when we are not overwhelmed by the spectacle of liberal universality. It dramatizes the distinction between the phantasms of rights we are promised and the facts of our situation and, as such, invites us to reassert our own forms of living and reality. As the Haitian example shows, such a recuperation can lead, at least potentially to a radical upending of liberal truisms. It doesn’t always lead to a happy ending—it certainly didn’t in Haiti—but it does offer a chance—a rare and wonderful chance—to start over, to stop responding to the calls of domination and begin to think about other, more subversive, forms of subjectivity.

#### Anti-humanism, anti-colonial discourse, and poetic interventions are all theoretical shortcuts to elide pragmatic analysis of alternative visions of freedom – strategically deploying humanism is necessary for political struggle.

**Wilder 16**

[(Gary, Gary Wilder works on the French empire, colonial states, historical anthropology, and social/political theory, with a focus on western Africa, the Antilles, and Europe. He is the author of The French Imperial Nation-State: Negritude and Colonial Humanism between the Two World Wars (2005), which traces empire-wide networks of science, administration, public opinion, and literature that linked colonial reformers in French West Africa to a black public sphere in Paris. His current research project, “Freedom Time: Negritude, Decolonization, Utopia,” examines post–World War II initiatives by African and Caribbean legislators to reconstitute France as a postcolonial federal democracy. Wilder was awarded a Mellon Foundation New Directions Fellowship, only one of ten awarded nationally in 2006, which allowed him to spend a year as a Visiting Fellow at the Human Rights Program of Harvard Law School. He holds a joint Ph.D. in anthropology and history from the University of Chicago and came to the Graduate Center from Pomona College in Fall 2009.) "Here/Hear Now Aimé Césaire!," South Atlantic Quarterly, 7/2016] TDI

These key terms illuminate crucial aspects of what made Césaire a distinc- tive thinker whose critical voice may continue to resonate for us today. But in order to attend to Césaire as he did his predecessors—as a contemporary— we should recognize how his intellectual orientation and insights brush against the grain of many current theoretical tendencies. In both critical theory and postcolonial studies, the standard operation is to unmask pur- portedly universal categories as socially constructed, culturally particular, and implicated in practices, systems, and logics of domination. These are indispensable critical moves. But this approach often devolves into a hunt for traces of universalism or humanism, whether in textual artifacts or political projects, in order to reveal the regressive or oppressive essence of the object. This “aha” moment thus becomes the punch line of the discussion rather than the starting point for analysis. Such fears of complicity with power do not only belie a longing for intellectual and political purity. They also make it difficult to think dialectically, to identify aspects of given arrangements that may point beyond their actually existing forms. The current insistence on negative critique also makes scholars reluctant to identify desirable alternatives and specify the kind of world they might want to create. But what do we concede if we are unable or unwilling to risk affirming more just, more human, ways of being to which we can say “yes”? It is not easy for radical thinkers to reconcile a nonprescriptive orientation to a radically open future with the imperative to envision more desirable arrangements (Coronil 2011). But ignoring or deferring the challenge does not make it disappear. Following anticolonial thinkers like Césaire, especially those located within the black Atlantic critical tradition, may remind us not to forfeit categories such as freedom, justice, democracy, solidarity, and humanity to the dominant actors who have instrumentalized and degraded them. Given this dilemma, the attention paid to Vivek Chibber’s recent polemic against subaltern studies is not surprising. Such attention, however, seems to be less about the merits of his universalist Marxism than about a sense of some of the limitations and impasses into which certain currents of postcolonial thinking have led (Chibber 2013).7 Partha Chatterjee himself has recently written, “The task, as it now stands, cannot . . . be taken forward within the framework of the concepts and methods mobilized in Subaltern Studies . . . what is needed are new projects” (2012a: 44). He suggests that such projects should probably focus on “cultural history” and “popular cul- ture” with a renewed focus on visual materials and embodied practices rather than written texts and on ethnography rather than intellectual his- tory. Moreover, he links this invitation to study “the ethnographic, the practi- cal, the everyday and the local” to a focus on subnational “regional forma- tions” and “minority cultures” and languages whose specificities, he observes, had not been sufficiently engaged by earlier subaltern studies research on “India,” “Pakistan,” or “Bangladesh” (47–49). Valuable as such studies would surely be, it is not clear how a renewed focus on locality, with place-based assumptions about territory, consciousness, and categories, could do the kind of critical work necessary to grasp the deep shifts in political logics, structures, and practices that characterize the world-historical present. On the contrary, such approaches risk reproducing precisely the culturalist and territorialist assumptions about political identification and affiliation that need to be rethought in light of contemporary conditions.8 Chatterjee’s surprising emphasis on local ethnography seems consis- tent with one trend in postcolonial thinking that risks reviving the types of civilizational thinking, and associated assumptions about origins and authenticity, that it had earlier set out to dismantle (Chakrabarty 2007; Mah- mood 2005; Mignolo 2011). Consider the important ways that Talal Asad has invited us to rethink liberal assumptions about “tradition,” with respect to liberal and nonliberal forms of life. In dialogue with Ludwig Wittgenstein and Alasdair MacIntyre, Asad (1986) has developed a powerful critique of liberal secularism—and the secularist logic that subtends many modern lib- eral states—from the standpoint of embodied and discursive traditions. On the one hand, he reminds us that “Islamic tradition” is neither singular nor unchanging; it is a structured and dynamic space for reasoned argument. On the other hand, he reminds us that despite liberalism’s claims to post- traditional neutrality, it too constitutes a particular tradition (albeit one that defines itself in opposition to inherited, embodied, and practice-oriented forms of tradition-based reasoning). Asad’s genealogical insights have rightly informed recent critiques of Western liberal ideologies, states, and politics especially regarding their arro- gant, condescending, and violent responses to tradition-rooted practices and practitioners, whether outside or inside the West. But his interventions, how- ever unintentionally, have also led scholars to establish dubious chains of equivalence between modernity, the West, and liberalism. Such operations seem to disregard Asad’s important invitation to understand traditions as capacious, heterogeneous, and dynamic spaces of inquiry, disputation, and revision, not simply as a set of rigid behavioral scripts, unchanging cultural formulas, or dogmatic ideological precepts. This reduction of political moder-nity to a one-dimensional liberalism obscures, for example, the many currents of progressive antiliberalism within the tradition of modern Western political thought. It fails to recognize the significant number of non-European colonial intellectuals engaged in anti-imperial struggles who were active participants in such “traditions within traditions.” It also disregards the contradictions within and redeemable fragments of even liberal political thinking, fragments that, if realized, might point far beyond, and possibly explode, liberalism itself. To reify modern or Western politics into a static and stereotypical liber- alism is to risk practicing an unfortunate form of “Occidentalism” that would reinforce archaic civilizational assumptions about incommensurable and unrelated worlds (and worldviews) and disregard the actual history and open possibilities for practices of cross-cultural solidarity whereby anti- imperial actors outside Europe could enter into dialogue or affiliate with, or even discover ways that they are already situated within, counterhegemonic “Western” political traditions. Critics have rightly mobilized singularity, incommensurability, or untranslatability against liberal attempts to discover an abstract humanity and thereby discount situated and embodied forms of life. But the question is whether we treat incommensurability or untranslat- ability as an epistemological or political limit or as an always imperfect start- ing point for practices of dialogue, coordination, affiliation, reciprocity, soli- darity. For isn’t the impossibility of full transparency or undifferentiated unity simply the unavoidable condition within which all communication, sociality, and politics must be attempted?9 My point is not to congratulate dissident currents within the West, let alone to recuperate liberalism. It is rather to approach radical and emancipa- tory politics from a place of not-already-knowing, of not presuming to know a priori which aspects of a tradition are irredeemable, which traditions may become allies or habitations, what the boundaries of (thoroughly plastic) tra- ditions must be. This nondogmatic and experimental orientation to politics, traditions, and concepts is one of the most precious and timely gifts that Césaire may offer to us now. He practiced a concrete cosmopolitan relation- ship to modern traditions of philosophy, aesthetics, and politics, one that was highly developed by the robust tradition of black Atlantic criticism within which he was firmly rooted along with predecessors (e.g., Toussaint and W. E. B. DuBois), contemporaries (e.g., C. L. R. James, James Baldwin, Suzanne Césaire, Senghor), and descendants (e.g., Fanon, Edouard Glissant, Stuart Hall, Paul Gilroy, Achille Mbembe, David Scott). Understandable concerns about totalizing explanation and Eurocentric evaluation have led a generation of scholars to insist on the incommensurable alterity of non-European forms of thought. But perhaps we should be con- cerned less exclusively with unmasking universalisms as covert European particularism than with also challenging the assumption that the universal is European property. I read Césaire not in order to provincialize Euro- pean concepts but to deprovincialize Antillean thinking. Césaire’s critical reworkings remind us that the supposedly European categories of political modernity properly belong as much to the African and Caribbean actors who coproduced them as to the inhabitants of continental Europe. Similarly, Afri- can and Caribbean thinkers, no less than their continental counterparts, produced abstract and general propositions about “humanity,” “history,” and “the world.” In contrast to invocations of multiple modernities, Césaire never granted to Europe possession of a modernity or universality or humanity that was always already translocal and fundamentally Caribbean. He never treated self-determination, emancipation, freedom, equality, or justice as essentially European and foreign. Césaire’s intellectual and political inter- ventions radically challenged reductive territorialist approaches to social thought. He refused to concede that “France” was an ethnic or continental entity, that Martinique was not in some real way internal to “French” society and politics, or that he was situated outside of modern critical traditions. Thus his ongoing and unapologetic engagements with Hegel, Marx, Proud- hon, Nietzsche, Lautréamont, Rimbaud, Mallarmé, Bergson, Freud, Breton, Frobenius, and Lenin, alongside his many African, Antillean, and African American interlocutors. The sonic blurring between “here” and “hear” in the title of this essay is meant to signal not only the contemporaneity of Césaire’s thought for us here now but the imperative that we open ourselves to his presence and recognize his actuality across the epochal divide by hearing what he actually said. This gesture builds on Walter Benjamin’s insight that every now is a “now of rec- ognizability” whereby “what has been comes together in a flash with the now to form a constellation” through which past epochs become newly legible (1999: 462). I also follow Césaire himself, who engaged in dialogue with pre- decessors as if they were contemporaries and who addressed future interlocu- tors directly as if they were already present. Like Benjamin, Césaire practiced a form of radical remembrance that connected outmoded pasts to charged presents. This attention to vital histories was bound up with a poetic politics that identified transformative possibilities dwelling within existing arrangements and a proleptic politics that anticipated seemingly impossible futures by trying to enact them concretely in the here and now. But Césaire can only speak to us now if we listen rather than presume to know what someone like him in his situation must have, or should have, been saying. Until very recently, scholarship on his work has been overdetermined by methodological nationalism (that puzzles over his refusal to pursue state sovereignty), identitarian culturalism (that debates how adequately Césaire expressed Antillean lived experience and whether or not he was an essential- ist), and a disciplinary division of labor (that too often splits his poetry, criti- cism, and politics into separate domains). Generally, Cold War scholarship was shaped by a need to evaluate him in relation to canonical anticolonial nationalists and fit him into a narrative of decolonization-as-national-inde- pendence. This has made it difficult to recognize the epochal character, world-making ambition, and global sensibility of his political reflections. Faced with the promise of decolonization, Césaire conjugated concrete acts with political imagination in ways that displaced conventional opposi- tions between aesthetics and politics, realism and utopia, pragmatism and principle. Such efforts were animated by what I have been calling radical lit- eralism and utopian realism and which he called inflection and poetic knowledge. He regarded freedom as a problem whose institutional solution was not self-evident and could only be situational. His interventions demon- strated the nonnecessary relationship between colonial emancipation, popu- lar sovereignty, and self-determination, on the one hand, and territorial state sovereignty and national liberation, on the other. He pursued cosmopolitan aims concretely through transcultural practices and by attempting to invent new political forms through which to ground plural and postnational demo- cratic arrangements. We should recognize that Césaire formulated a critique not of Western civilization from the standpoint of African or Antillean culture but of modern Western racism, imperialism, and capitalism from the standpoint of Antil- lean and African historical situations and experiences. More generally, it was a critique of an alienated and alienating modernity from the standpoint of embodied and poetic ways of being, knowing, and relating (to self, others, and world). Above all, Césaire recognized residues of, and resources for, more just, human, and integrated ways of living together within Antillean, African, and European texts, traditions, forms, histories, and conditions. In his view, Antilleans—as culturally particular actors, imperial subjects, New World denizens, moderns, and humans—were their rightful heirs. He was con- cerned less with defining culturally authentic concepts, spaces, and arrange- ments for Antilleans (apart from Europe or uncontaminated by modernity) than with overcoming imperialism, in solidarity with other struggling peo- ples, in order to establish less alienated forms of human life globally. Remembering Césaire’s insistence that modern currents of radicalism were shared legacies and common property may help us to rethink inherited assumptions about the relation between territory, ethnicity, consciousness, and interest (Buck-Morss 2009, 2010). They invite us to deterritorialize social thought and to decolonize intellectual history. This is a matter not of valorizing non-European forms of knowledge, as important as such a move certainly is, but of questioning the presumptive boundaries of “Europe” itself—by recognizing the larger scales on which modern social thought was forged and of appreciating that colonial societies produced self-reflexive thinkers concerned with large-scale processes and future prospects. We can thereby recognize Césaire as a situated postwar thinker of the postwar world, one of whose pri- mary aims was to place into question the very categories “France,” “Europe,” and “the West” by way of an immanent critique of late imperial politics. He envisioned postnational arrangements through which humanity could attempt to overcome the alienating antinomies that had impoverished the quality of life in overseas colonies and European metropoles. His situated humanism and concrete cosmopolitanism should thus be placed in a constel- lation of modern emancipatory thinking oriented toward worldwide human freedom that included antiracist, anti-imperial, internationalist, and socialist thinkers from a range of traditions: black Atlantic, First Internationalist, global anarchist, Western Marxist, Marxist humanist, Third Worldist.

#### That outweighs, three reasons –

#### First is longevity.

#### The effects of their method are short-lived and not retained as valuable information when opportunities to create real change present themselves.

**Goodin and Niemeyer 03**

Robert E. Goodin and Simon J. Niemeyer- Australian National University- 2003, When Does Deliberation Begin? Internal Reflection versus Public Discussion in Deliberative Democracy, POLITICAL STUDIES: 2003 VOL 51, 627–649, <http://onlinelibrary.wiley.com/doi/10.1111/j.0032-3217.2003.00450.x/pdf> -CAT

What happened in this particular case, as in any particular case, was in some respects peculiar unto itself. The problem of the Bloomfield Track had been well known and much discussed in the local community for a long time. Exaggerated claims and counter-claims had become entrenched, and unreflective public opinion polarized around them. In this circumstance, the effect of the information phase of deliberative processes was to brush away those highly polarized attitudes, dispel the myths and symbolic posturing on both sides that had come to dominate the debate, and liberate people to act upon their attitudes toward the protection of rainforest itself. The key point, from the perspective of ‘democratic deliberation within’, is that that happened in the earlier stages of deliberation – before the formal discussions (‘deliberations’, in the discursive sense) of the jury process ever began. The simple process of jurors seeing the site for themselves, focusing their minds on the issues and listening to what experts had to say did virtually all the work in changing jurors’ attitudes. Talking among themselves, as a jury, did very little of it. However, the same might happen in cases very different from this one. Suppose that instead of highly polarized symbolic attitudes, what we have at the outset is mass ignorance or mass apathy or non-attitudes. There again, people’s engaging with the issue – focusing on it, acquiring information about it, thinking hard about it – would be something that is likely to occur earlier rather than later in the deliberative process. And more to our point, it is something that is most likely to occur within individuals themselves or in informal interactions, well in advance of any formal, organized group discussion. There is much in the large literature on attitudes and the mechanisms by which they change to support that speculation.31 Consider, for example, the literature on ‘central’ versus ‘peripheral’ routes to the formation of attitudes. Before deliberation, individuals may not have given the issue much thought or bothered to engage in an extensive process of reflection.32 In such cases, positions may be arrived at via peripheral routes, taking cognitive shortcuts or arriving at ‘top of the head’ conclusions or even simply following the lead of others believed to hold similar attitudes or values (Lupia, 1994). These shorthand approaches involve the use of available cues such as ‘expertness’ or ‘attractiveness’ (Petty and Cacioppo, 1986) – not deliberation in the internal-reflective sense we have described. Where peripheral shortcuts are employed, there may be inconsistencies in logic and the formation of positions, based on partial information or incomplete information processing. In contrast, ‘central’ routes to the development of attitudes involve the application of more deliberate effort to the matter at hand, in a way that is more akin to the internal-reflective deliberative ideal. Importantly for our thesis, there is nothing intrinsic to the ‘central’ route that requires group deliberation. Research in this area stresses instead the importance simply of ‘sufficient impetus’ for engaging in deliberation, such as when an individual is stimulated by personal involvement in the issue.33 The same is true of ‘on-line’ versus ‘memory-based’ processes of attitude change.34 The suggestion here is that we lead our ordinary lives largely on autopilot, doing routine things in routine ways without much thought or reflection. When we come across something ‘new’, we update our routines – our ‘running’ beliefs and pro cedures, attitudes and evaluations – accordingly. But having updated, we then drop the impetus for the update into deep-stored ‘memory’. A consequence of this procedure is that, when asked in the ordinary course of events ‘what we believe’ or ‘what attitude we take’ toward something, we easily retrieve what we think but we cannot so easily retrieve the reasons why. That more fully reasoned assessment – the sort of thing we have been calling internal-reflective deliberation – requires us to call up reasons from stored memory rather than just consulting our running on-line ‘summary judgments’. Crucially for our present discussion, once again, what prompts that shift from online to more deeply reflective deliberation is not necessarily interpersonal discussion. The impetus for fixing one’s attention on a topic, and retrieving reasons from stored memory, might come from any of a number sources: group discussion is only one. And again, even in the context of a group discussion, this shift from ‘online’ to ‘memory-based’ processing is likely to occur earlier rather than later in the process, often before the formal discussion ever begins. All this is simply to say that, on a great many models and in a great many different sorts of settings, it seems likely that elements of the pre-discursive process are likely to prove crucial to the shaping and reshaping of people’s attitudes in a citizens’ jury-style process. The initial processes of focusing attention on a topic, providing information about it and inviting people to think hard about it is **likely to provide a strong impetus to internal-reflective deliberation, altering not just the information people have about the issue but also the way people process that information and hence (perhaps) what they think** about the issue. What happens once people have shifted into this more internal-reflective mode is, obviously, an open question. Maybe people would then come to an easy consensus, as they did in their attitudes toward the Daintree rainforest.35 Or maybe people would come to divergent conclusions; and they then may (or may not) be open to argument and counter-argument, with talk actually changing minds. Our claim is not that group discussion will always matter as little as it did in our citizens’ jury.36 Our claim is instead merely that the earliest steps in the jury process – the sheer focusing of attention on the issue at hand and acquiring more information about it, and the internal-reflective deliberation that that prompts – will invariably matter more than deliberative democrats of a more discursive stripe would have us believe. However much or little difference formal group discussions might make, on any given occasion, the pre-discursive phases of the jury process will invariably have a considerable impact on changing the way jurors approach an issue. From Citizens’ Juries to Ordinary Mass Politics? In a citizens’ jury sort of setting, then, it seems that informal, pre-group deliberation – ‘deliberation within’ – will inevitably do much of the work that deliberative democrats ordinarily want to attribute to the more formal discursive processes. What are the preconditions for that happening? To what extent, in that sense, can findings about citizens’ juries be extended to other larger or less well-ordered deliberative settings? Even in citizens’ juries, deliberation will work only if people are attentive, open and willing to change their minds as appropriate. So, too, in mass politics. In citizens’ juries the need to participate (or the anticipation of participating) in formally organized group discussions might be the ‘prompt’ that evokes those attributes. But there might be many other possible ‘prompts’ that can be found in less formally structured mass-political settings. Here are a few ways citizens’ juries (and all cognate micro-deliberative processes)37 might be different from mass politics, and in which lessons drawn from that experience might not therefore carry over to ordinary politics: • A citizens’ jury concentrates people’s minds on a single issue. Ordinary politics involve many issues at once. • A citizens’ jury is often supplied a background briefing that has been agreed by all stakeholders (Smith and Wales, 2000, p. 58). In ordinary mass politics, there is rarely any equivalent common ground on which debates are conducted. • A citizens’ jury separates the process of acquiring information from that of discussing the issues. In ordinary mass politics, those processes are invariably intertwined. • A citizens’ jury is provided with a set of experts. They can be questioned, debated or discounted. But there is a strictly limited set of ‘competing experts’ on the same subject. In ordinary mass politics, claims and sources of expertise often seem virtually limitless, allowing for much greater ‘selective perception’. • Participating in something called a ‘citizens’ jury’ evokes certain very particular norms: norms concerning the ‘impartiality’ appropriate to jurors; norms concerning the ‘common good’ orientation appropriate to people in their capacity as citizens.38 There is a very different ethos at work in ordinary mass politics, which are typically driven by flagrantly partisan appeals to sectional interest (or utter disinterest and voter apathy). • In a citizens’ jury, we think and listen in anticipation of the discussion phase, knowing that we soon will have to defend our views in a discursive setting where they will be probed intensively.39 In ordinary mass-political settings, there is no such incentive for paying attention. It is perfectly true that citizens’ juries are ‘special’ in all those ways. But if being special in all those ways makes for a better – more ‘reflective’, more ‘deliberative’ – political process, then those are design features that we ought try to mimic as best we can in ordinary mass politics as well. There are various ways that that might be done. Briefing books might be prepared by sponsors of American presidential debates (the League of Women Voters, and such like) in consultation with the stakeholders involved. Agreed panels of experts might be questioned on prime-time television. Issues might be sequenced for debate and resolution, to avoid too much competition for people’s time and attention. Variations on the Ackerman and Fishkin (2002) proposal for a ‘deliberation day’ before every election might be generalized, with a day every few months being given over to small meetings in local schools to discuss public issues. All that is pretty visionary, perhaps. And (although it is clearly beyond the scope of the present paper to explore them in depth) there are doubtless many other more-or-less visionary ways of introducing into real-world politics analogues of the elements that induce citizens’ jurors to practice ‘democratic deliberation within’, even before the jury discussion gets underway. Here, we have to content ourselves with identifying those features that need to be replicated in real-world politics in order to achieve that goal – and with the ‘possibility theorem’ that is established by the fact that (as sketched immediately above) there is at least one possible way of doing that for each of those key features.

#### Second is competition.

#### The AFF method creates unforeseen friction and resistance, leading to hyperpartisanship and a regression of allyship due to lack of consideration for the negative’s role in this space and the way they can contribute to the AFF’s roadmap for broader change.

Atchison and Panetta 09

Atchison and Panetta, 09 (Jarrod Atchison, Phd Rhetoric University of Georgia, Assistant Professor and Director of debate at Wake Forest University, and Edward Panetta, Phd Rhetoric Associate Professor University of Pitt and Director of Debate at Georgia, Intercollegiate Debate and Speech Communication, Historical Developments and Issues for the Future, â€œIntercollegiate Debate and Speech Communication: Issues for the Future,â€ The Sage Handbook of Rhetorical Studies, Lunsford, Andrea, ed. (Los Angeles: Sage Publications Inc., 2009) p. 317-334)

Competition has been a critical component of the interest in intercollegiate debate from the beginning, and it does not help further the goals of the debate community to dismiss competition in the name of community change. The larger problem with locating the "debate as activism" perspective within the competitive framework is that it overlooks the communal nature of the community problem. If each individual debate is a decision about how the debate community should approach a problem, then the losing debaters become collateral damage in the activist strategy dedicated toward creating community change. One frustrating example of this type of argument might include a judge voting for an activist team in an effort to help them reach elimination rounds to generate a community discussion about the problem. Under this scenario, the losing team serves as a sacrificial lamb on the altar of community change. Downplaying the important role of competition and treating opponents as scapegoats for the failures of the community may increase the profile of the winning team and the community problem, but it does little to generate the critical coalitions necessary to address the community problem, because the competitive focus encourages teams to concentrate on how to beat the strategy with little regard for addressing the community problem. There is no role for competition when a judge decides that it is important to accentuate the publicity of a community problem. An extreme example might include a team arguing that their opponents' academic institution had a legacy of civil rights abuses and that the judge should not vote for them because that would be a community endorsement of a problematic institution. This scenario is a bit more outlandish but not unreasonable if one assumes mat each debate should be about what is best for promoting solutions to diversity problems in the debate community.

#### Third is intersectionality.

#### The K papers over necessary intersectional voices that could greatly bolster its widespread effectiveness in a collaborative environment, and instead turns them away – saying they aren’t welcome in the world of the Affirmative.

Crenshaw 91

Crenshaw: Crenshaw, Kimberlé Williams. [Professor of Law, UCLA] “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color.” Stanford Law Review, Vol. 43, July 1991. CH -recut CAT

The problem with identity politics is not that it fails to transcend difference, as some critics charge, but rather the opposite- that it frequently conflates or ignores intra group differences. In the context of violence against women, this elision of difference is problematic, fundamentally because the violence that many women experience is often shaped by other dimensions of their identities, such as race and class. Moreover, ignoring differences within groups frequently contributes to tension among groups, another problem of identity politics that frustrates efforts to politicize violence against women. Feminist efforts to politicize experiences of women and antiracist efforts to politicize experiences of people of color' have frequently proceeded as though the issues and experiences they each detail occur on mutually exclusive terrains. Although racism and sexism readily intersect in the lives of real people, they seldom do in feminist and antiracist practices. And so, when the practices expound identity as ‘woman’ or ‘person of color’ as an either/or proposition, they relegate the identity of women of color to a location that resists telling.

#### She adds:

The concept of political intersectionality highlights the fact that women of color are situated within at least two subordinated groups that frequently pursue conflicting political agendas. The need to split one's political energies between two sometimes opposing political agendas is a dimension of intersectional disempowerment that men of color and white women seldom confront. Indeed, their specific raced and gendered experiences, although intersectional, often define as well as confine the interests of the entire group. For example, racism as experienced by people of color who are of a particular gender--male—tends to determine the parameters of antiracist strategies, just as sexism as experienced by women who are of a particular race-white- tends to ground the women's movement. The problem is not simply that both discourses fail women of color by not acknowledging the "additional" burden of patriarchy or of racism, but that the discourses are often inadequate even to the discrete tasks of articulating the full dimensions of racism and sexism. Because women of color experience racism in ways not always the same as those experienced by men of color, and sexism in ways not always parallel to experiences of white women, dominant conceptions of antiracism and feminism are limited, even on their own terms. Among the most troubling political consequences of [T]he failure of antiracist and feminist discourses to address the intersections of racism and patriarchy is the fact that, to the extent they forward the interest of people of color and "women," respectively, one analysis often implicitly denies the validity of the other. The failure of feminism to interrogate race means that the resistance strategies of feminism will often replicate and reinforce the subordination of people of color, and the failure of antiracism to interrogate patriarchy means that antiracism will frequently reproduce the subordination of women. These mutual elisions present a particularly difficult political dilemma for women of color. Adopting either analysis constitutes a denial of a fundamental dimension of our subordination and works to preclude the development of a political discourse that more fully empowers women of color.