# 1NC Durham finals

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#### Settler colonialism structures the world in a settler-native-slave relationship, erasing indigenous peoples, causing constant ontological violence.

Tuck and Yang 12 [Eve Tuck is an award winning Unangax̂ scholar in the field of Indigenous studies and educational research. She is Associate Professor of Critical Race and Indigenous Studies at the Ontario Institute for Studies in Education (OISE), University of Toronto. Yang is a Ph.D. Social and Cultural Studies in Education, University of California, Berkeley] “Decolonization is not a metaphor”, Decolonization: Indigeneity, Education & Society //AA

Our intention in this descriptive exercise is not be exhaustive, or even inarguable; instead, we wish to emphasize that (a) decolonization will take a different shape in each of these contexts - though they can overlap - and that (b) neither external nor internal colonialism adequately describe the form of colonialism which operates in the United States or other nation-states in which the colonizer comes to stay. Settler colonialism operates through internal/external colonial modes simultaneously because there is no spatial separation between metropole and colony. For example, in the United States, many Indigenous peoples have been forcibly removed from their homelands onto reservations, indentured, and abducted into state custody, signaling the form of colonization as simultaneously internal (via boarding schools and other biopolitical modes of control) and external (via uranium mining on Indigenous land in the US Southwest and oil extraction on Indigenous land in Alaska) with a frontier (the US military still nicknames all enemy territory “Indian Country”). The horizons of the settler colonial nation-state are total and require a mode of total appropriation of Indigenous life and land, rather than the selective expropriation of profit-producing fragments. Settler colonialism is different from other forms of colonialism in that settlers come with the intention of making a new home on the land, a homemaking that insists on settler sovereignty over all things in their new domain. Thus, relying solely on postcolonial literatures or theories of coloniality that ignore settler colonialism will not help to envision the shape that decolonization must take in settler colonial contexts. Within settler colonialism, the most important concern is land/water/air/subterranean earth (land, for shorthand, in this article.) Land is what is most valuable, contested, required. This is both because the settlers make Indigenous land their new home and source of capital, and also because the disruption of Indigenous relationships to land represents a profound **epistemic, ontological, cosmological violence**. This violence is not temporally contained in the arrival of the settler but is reasserted each day of occupation. This is why Patrick Wolfe (1999) emphasizes that **settler colonialism is a structure and not an event.** In the process of settler colonialism, land is remade into property and human relationships to land are restricted to the relationship of the owner to his property. Epistemological, ontological, and cosmological relationships to land are interred, indeed made pre-modern and backward. Made savage. In order for **the settlers** to make a place their home, they must **destroy and disappear the Indigenous peoples that live there.** **Indigenous peoples are those who have creation stories, not colonization stories, about how we/they came to be in a particular place - indeed how we/they came to be a place**. Our/their relationships to land comprise our/their epistemologies, ontologies, and cosmologies. For **the settlers, Indigenous peoples are in the way and, in the destruction of Indigenous peoples, Indigenous communities, and over time and through law and policy, Indigenous peoples’ claims to land under settler regimes, land is recast as property and as a resource.** Indigenous peoples must be erased, must be made into ghosts (Tuck and Ree, forthcoming). At the same time, settler colonialism involves the subjugation and forced labor of chattel slaves, whose bodies and lives become the property, and who are kept landless.

#### The plan operates through a manipulation of consent – indigenous people desiring survival is not consent to settler occupation – you don’t have the jurisdiction to vote AFF

Simpson 17**,** Audra. [Department of Anthropology, Columbia University] The ruse of consent and the anatomy of ‘refusal’: cases from indigenous North America and Australia. Postcolonial Studies. 06 Jun 2017. <https://doi.org/10.1080/13688790.2017.1334283>

The ruse of consent Would you consent to have your land taken? Are the treaties I described earlier a model for thinking through just relations on stolen land? The trick of law in settler spaces is to pretend that this in fact was not a theft that all parties consented to this fully and that appropriation of land was in fact just. And thus, matters are settled. Recent work by Heidi Stark unmasks the conceit of this as fact with recourse to events in what is now American and Indigenous history.45 Stark’s thesis is the following: the nascent U.S. and Canada constructed Indigenous people (mostly men) as criminal in order to mask their own criminality. They did so by actually converting treaties from Indigenous understandings of forms of relationship (often called ‘renewal’) to contracts and land cessions. By interpreting these agreements as contracts, they set up conditions for outright war through the sanctioning of constant incursions upon Indigenous land. These incursions ‘rendered unlawful the moment they violated the treaties that authorized their presence across Indigenous lands’. 46 She then offers in painstaking detail accounts of the hangings and the incarcerations of predominantly indigenous men as they resisted these wrongful interpretations of treaty: everywhere from Modoc country, to Tsilhqot’in in what is now British Columbia, to Dakota territory in what is now Minnesota. Native male bodies were hanged, were shot, were incarcerated for the purposes of a land grab, but this land grab was also achieved in part by the interpretive move by the state: the move from the model of relationship to contract, with the subsequent move to inevitable contravention and the production of criminality. Stark then argues, this was the making and the masking of a ‘criminal empire’. 47. This ‘criminal empire’ was driven by a desire for land and resources, achieved through the force of violence and executed and sealed through contractual thinking and law – a law that masked settler state criminality while producing Indians as criminals. I articulate Stark’s account and analysis to Rosas’s ethnography and also to Danaiyairi’s interviews because they all point to the press of states and law as they do their work of ‘governing’ and fail, at points, to achieve ‘perfect settler sovereignty’, ‘neoliberal sovereignty’ or what some might perceive as simply ‘governance’. The practices and techniques of institutional ‘recognition’, of bringing peoples presumed alterity into the ambit of the state through the devices of treaty, of contract, later of citizenship itself, the mechanisms of rights appear to offer fairness, protection a form of justice. All of these techniques also require concession to the authority of foreign and dispossessing political will but also serve to diminish the authority and sovereignty (even when recognised, ever so slightly), of robust Indigenous political orders. These varying accounts have demonstrated state’s effort to enclose life for land and sometimes their failure at this, but also in broad strokes, a kind of cunning practice of recognition and governance.48 In this, I mean a calculating effort to (in Lisa Ford’s terms) perform territorial rationality, jurisdiction and governance by any legal and discursive means necessary,49 but also to (in my terms) steal while making those who you steal from, the criminal. This is the ruse of consent, they did not consent to this fully, they know this, it is the liberal move again and again to pretend as if this ruse of consent signals freedom and the free will to consent to this. It is a ruse laid bare in these electoral moments in the U.S.A, when people are starting to point to where they think ‘the facts’ lie – where the origin stories are, and what the sturdiness of those stories is – all motivated by the specious grasp on both ethics and truthtelling by the current regime. These double moves are the conditions as well, for and of refusal. The ethnographic and historical cases here point to the multiple ways in which contractual thinking and dispossession have produced historical consciousness in indigenous people that pushes against the contained, diagnostic language of politics (or perhaps political science itself) and rendered refusal an expression of this consciousness. Refusal is a symptom, a practice, a possibility for doing things differently, for thinking beyond the recognition paradigm that is the agreed-upon ‘antidote’ for rendering justice in deeply unequal scenes of articulation. A master and a slave are unequal. One owns the other. Seeking oneself in the gaze of another can be a fallacy of endless suffering if not in and of itself an impossibility. Will they see me as I ought to be seen? Turning away, as Coulthard has argued, and as I have argued and demonstrated in Mohawk Interruptus, is a technique, is a possibility.50 Every possibility is not in the gaze or the minds of the master, nor is the hope of mutuality (underwritten by a hope for sincerity) something that all seek. History is also littered with those painful, disappointing, mobilising stories of so many failed attempts at justice, and also at times, refusal. Why keep trying? One might wonder. This practice of refusal, one of various sorts, revenges the conceit of easy politics, of the very notion that Indigenous peoples had all things been equal would have consented to have things taken, things stolen from them. I have charted this out in this brief thesis on refusal. Rosas’ interlocutors smash these categorical imperatives, what I call the ‘easy answers’. The people I work with refuse the eliminatory efforts of the state. They operate as nationals in a scene of wardship and dispossession. They are different from Rosas’ interlocutors, but they operate from a similar and flagrantly selfassured position, utterly escaping the answer that is easy to record or to analyse. My ethnographic and analytical prerogative is to make the practice of ethnography itself a refusal in time with theirs.

#### The 1AC is a micro reform without changing the larger structure of colonalism that’s founded within nation states – they only deal with space via private entities meaning Indigenous people harmed via other aspects of the system are ignored, and their suffering is justified -

#### Settler colonial studies that fail to center gender are just different forms of colonization

Nagle 15 [Rebecca Nagle, the co-director of FORCE: Upsetting Rape Culture. Force is a creative and activist effort to upset the dominant culture of rape and promote a counter culture of consent. "An Interview With Shawn Partridge on Violence Against Native Women", Huffington Post, 3-31-2015, < http://www.huffingtonpost.com/rebecca-nagle/an-interview-with-shawn-p\_b\_6979694.html ]

In mainstream discourse on rape culture, many fail to make the connection between colonization and rape culture. The history of genocide, rape, and cultural decimation against Native peoples cannot be ignored when analyzing the rates of sexual and domestic violence against Native people today. Shawn elaborates, "I'm certainly not trying to speak for Native people in general or anything like that, but in looking at violence against Native women, it's important to look at historical traumas and history. The legacy of colonization has had a tremendous impact on our people for generations. Our Elders tell us these kinds of victimization were not the kind of behavior that was tolerated or really practiced much among our people. They tell us this isn't our way, so how has this violence become so dominant among our people? We have to look at the impact of colonization and the sexual violence perpetrated amongst native children at boarding schools. It's as though we've been conditioned to accept this kind of victimization." Boarding schools served to forcibly relocate and assimilate Native children into a White supremacist society. These injustices were paired with rampant sexual abuse against Native children, with no real accountability for perpetrators of this violence. Colonization in all its forms has served as an antithesis to creating a culture of consent.

#### The 1AC’s usage of decol as a metaphor reifies indigenous violence and stands at odds with decolonization – no perms – CX proves the link – they are using the word decol for their own ends and don’ even talk about LEAVING THE LAND

Tuck and Yang 12 [Eve Tuck is an award winning Unangax̂ scholar in the field of Indigenous studies and educational research. She is Associate Professor of Critical Race and Indigenous Studies at the Ontario Institute for Studies in Education (OISE), University of Toronto. Yang is a Ph.D. Social and Cultural Studies in Education, University of California, Berkeley] “Decolonization is not a metaphor” <https://clas.osu.edu/sites/clas.osu.edu/files/Tuck%20and%20Yang%202012%20Decolonization%20is%20not%20a%20metaphor.pdf> //AA

Alongside this work, we have been thinking about what decolonization means, what it wants and requires. One trend we have noticed, with growing apprehension, is the ease with which the language of decolonization has been superficially adopted into education and other social sciences, supplanting prior ways of talking about social justice, critical methodologies, or approaches which decenter settler perspectives. Decolonization, which we assert is a distinct project from other civil and human rights-based social justice projects, is far too often subsumed into the directives of these projects, with no regard for how decolonization wants something different than those forms of justice. Settler scholars swap out prior civil and human rights based terms, seemingly to signal both an awareness of the significance of Indigenous and decolonizing theorizations of schooling and educational research, and to include Indigenous peoples on the list of considerations - as an additional special (ethnic) group or class. At a conference on educational research, it is not uncommon to hear speakers refer, almost casually, to the need to “decolonize our schools,” or use “decolonizing methods,” or “decolonize student thinking.” Yet, we have observed a startling number of these discussions make no mention of Indigenous peoples, our/their1 struggles for the recognition of our/their sovereignty, or the contributions of Indigenous intellectuals and activists to theories and frameworks of decolonization. Further, there is often little recognition given to the immediate context of settler colonialism on the North American lands where many of these conferences take place. Of course, dressing up in the language of decolonization is not as offensive as “Navajo print” underwear sold at a clothing chain store (Gaynor, 2012) and other appropriations of Indigenous cultures and materials that occur so frequently. Yet, this kind of inclusion is a form of enclosure, dangerous in how it domesticates decolonization. It is also a foreclosure, limiting in how it recapitulates dominant theories of social change. On the occasion of the inaugural issue of Decolonization: Indigeneity, Education, & Society, we want to be sure to clarify that decolonization is not a metaphor. When metaphor invades decolonization, it kills the very possibility of decolonization; it recenters whiteness, it resettles theory, it extends innocence to the settler, it entertains a settler future. Decolonize (a verb) and decolonization (a noun) cannot easily be grafted onto pre-existing discourses/frameworks, even if they are critical, even if they are anti-racist, even if they are justice frameworks. The easy absorption, adoption, and transposing of decolonization is yet another form of settler appropriation. When we write about decolonization, we are not offering it as a metaphor; it is not an approximation of other experiences of oppression. Decolonization is not a swappable term for other things we want to do to improve our societies and schools. Decolonization doesn’t have a synonym. Our goal in this essay is to remind readers what is unsettling about decolonization – what is unsettling and what should be unsettling. Clearly, we are advocates for the analysis of settler colonialism within education and education research and we position the work of Indigenous thinkers as central in unlocking the confounding aspects of public schooling. We, at least in part, want others to join us in these efforts, so that settler colonial structuring and Indigenous critiques of that structuring are no longer rendered invisible. Yet, this joining cannot be too easy, too open, too settled. Solidarity is an uneasy, reserved, and unsettled matter that neither reconciles present grievances nor forecloses future conflict. There are parts of the decolonization project that are not easily absorbed by human rights or civil rights based approaches to educational equity. In this essay, we think about what decolonization wants. There is a long and bumbled history of non-Indigenous peoples making moves to alleviate the impacts of colonization. The too-easy adoption of decolonizing discourse (making decolonization a metaphor) is just one part of that history and it taps into pre-existing tropes that get in the way of more meaningful potential alliances. We think of the enactment of these tropes as a series of moves to innocence (Malwhinney, 1998), which problematically attempt to reconcile settler guilt and complicity, and rescue settler futurity. Here, to explain why decolonization is and requires more than a metaphor, we discuss some of these moves to innocence: i. Settler nativism ii. Fantasizing adoption iii. Colonial equivocation iv. Conscientization v. At risk-ing / Asterisk-ing Indigenous peoples vi. Re-occupation and urban homesteading Such moves ultimately represent settler fantasies of easier paths to reconciliation. Actually, we argue, attending to what is irreconcilable within settler colonial relations and what is incommensurable between decolonizing projects and other social justice projects will help to reduce the frustration of attempts at solidarity; but the attention won’t get anyone off the hook from the hard, unsettling work of decolonization. Thus, we also include a discussion of interruptions that unsettle innocence and recognize incommensurability.

#### Settler colonialism structures violence as a necessary aspect of life—their impacts are inevitable under the settler state

Maldonado-Torres ‘8 [Nelson, Associate Prof of CompLit @ Rutgers U, Against War: Views from the Underside of Modernity, p. 217-21]

Dussel, Quijano, and Wynter lead us to the understanding that what happened in the Americas was a transformation and **naturalization of the non-ethics of war**—which represented a sort of exception to the ethics that regulate normal conduct in Christian countries—into a more **stable and long-standing reality of damnation**, and that this epistemic and material shift occurred in the colony**. Damnation, life in hell, is colonialism**: a reality characterized by the naturalization of war by means of the naturalization of slavery, now justified in relation to the very constitution of people and no longer solely or principally to their faith or belief. That human beings become slaves when they are vanquished in a war translates in the Americas into **the suspicion that the conquered people, and then non-European peoples in general, are constitutively inferior** and that therefore they should assume a position of slavery and serfdom. Later on, this idea would be solidified with respect to the slavery of African peoples, achieving stability up to the present with the tragic reality of different forms of racism. Through this process, what looked like a "state of exception" in the colonies became the rule in the modern world. However, deviating from Giorgio Agarnben's diagnosis, one must say that the colony--long before the concentration camp and the Nazi politics of extermination--served as the testing ground for the limits and possibilities of modernity, thereby revealing its darkest secrets." It is race, the **coloniality of powe**r, and its concomitant Eurocentrism (and not only national socialisms or forms of fascism) that **allow** the "state of exception" to continue to define ordinary relations in this, our so-called postmodern world. Race emerges within **a permanent state of exception where** forms of behavior that are legitimate in **war become a natural part of the ordinary way of life**. In that world, an otherwise extraordinary affair becomes the norm and living in it requires extraordinary effort." In the racial/ colonial world, the "**hell" of war becomes** a condition that defines the **reality** of racialized selves, which Fanon referred to as the damnes de la terre (condemned of the earth). The damne (condemned) is a subject who exists in a permanent "hell," and as such, this figure serves as the main referent or liminal other that guarantees the continued affirmation of modernity as a paradigm of war. The hell of the condemned is not defined by the alienation of colonized productive forces, but rather signals the dispensability of racialized subjects, that is, the idea that the world would be fundamentally better without them. The racialized subject is ultimately a dispensable source of value, and exploitation is conceived in this context as due torture, and not solely as the extraction of surplus value. Moreover, it is this very same conception that gives rise to the particular erotic dynamics that characterize the relation between the master and its slaves or racialized workers. **The condemned, in short, inhabit a context in which the confrontation with death and murder is ordinary**. Their "hell" is not simply "other people," as Sartre would have put it-at least at one point - but rather racist perceptions that are responsible for the suspension of ethical behavior toward peoples at the bottom of the color line. Through racial conceptions that became central to the modern self, modernity and coloniality produced a permanent state of war that racialized and colonized subjects cannot evade or escape. The modern function of race and the coloniality of power, I am suggesting here, can be understood as **a radicalization and naturalization of the non-ethics of war** in colonialism." This non-ethics included the practices of eliminating and enslaving certain subjects-for example, indigenous and black-as part of the enterprise of colonization. From here one could as well refer to them as the **death ethics of war. War,** however, is not only about killing or enslaving; it **also includes a particular treatment of sexuality and femininity: rape.** **Coloniality is an order of things that places people of color within the murderous and rapist view of a vigilant ego, and the primary targets of this rape are women.** But men of color are also seen through these lenses and feminized, to become fundamentally penetrable subjects for the ego conquiro. Racial- ization functions through gender and sex, and the ego conquiro is thereby constitutively a phallic ego as well." Dussel. who presents this thesis of the phallic character of the ego cogito, also makes links, albeit indirectly, with the reality of war. And thus, in the beginning of modernity, before Descartes discovered ... a terrifying anthropological dualism in Europe, the Spanish conquistadors arrived in America. The phallic conception of the European-medieval world is now added to the forms of submission of the vanquished Indians. "Males," Bartolome de las Casas writes, are reduced through "the hardest, most horrible, and harshest serfdom"; but this only occurs with those who have remained alive, because many of them have died; however, "in war typically they only leave alive young men (mozos) and women.""5 The indigenous people who survive the massacre or are left alive have to contend with a world that considers them to be dispensable. And since their bodies have been conceived of as inherently inferior or violent, they must be constantly subdued or civilized, which requires renewed acts of conquest and colonization. The survivors continue to live in a world defined by war, and this situation is peculiar in the case of women. AsT. Denean Sharpley-Whiting and Renee T, White put it in the preface to their anthology Spoils oJ War: Women oJ Color, Cultures, and Revolutions: A sexist and/or racist patriarchal culture and order posts and attempts to maintain, through violent acts of force if necessary, the subjugation and inferiority of women of color. As Joy James notes, "its explicit, general premise constructs a conceptual framework of male [and/or white] as normative in order to enforce a politicaljracial, economic, cultural. sexual] and intellectual mandate of male [and/or white] as superior." The warfront has always been a "feminized" and "colored" space for women of color. Their experiences and perceptions of war, conA ict, resistance, and struggle emerge from their specific racial-ethnic and gendered locations ... Inter arma silent leges: in time of war the law is silent," Walzer notes. Thus, this volume operates from the premise that war has been and is presently in our midst.” The links between **war, conquest, and the exploitation of women's bodies** are hardly accidental. In his study of war and gender, Joshua Goldstein argues that conquest usually proceeds through an extension of the rape and exploitation of women in wartime." He argues that to understand conquest, one needs to examine: I) male sexuality as a cause of aggression; 2) the feminization of enemies as symbolic domination; and 3) dependence on the exploitation of women's labor-including reproduction." My argument is, first, that these three elements came together in a powerful way in the idea of race that began to emerge in the conquest and colonization of the Americas. My second point is that through the idea of race, these **elements exceed the activity of conquest and come to define what from that point on passes as the idea of a "normal" world**. As a result, **the phenomenology of a racial context resembles, if it is not fundamentally i**dentical to, the phenomenology of war and conquest. Racism posits its targets as racialized and sexualized subjects that, once vanquished, are said to be inherently servile and whose bodies come to form part of an economy of sexual abuse, exploitation, and control. The coloniality of power cannot be fully understood without reference to the transformation and naturalization of war and conquest in modern times. **Hellish existence** in the colonial world carries with it both the racial and the gendered aspects of the naturalization of the non-ethics of war. **"Killability" and "rapeability" are inscribed into the images of colonial bodies and deeply mark their ordinary existence.** Lacking real authority, colonized men are permanently feminized and simultaneously represent a constant threat for whom any amount of authority, any visible trace of the phallus is multiplied in a symbolic hysteria that knows no lirnits.?" Mythical depiction of the black man's penis is a case in point: the black man is depicted as an aggressive sexual beast who desires to rape women, particularly white women. The black woman, in turn, is seen as always already sexually available to the rapist gaze of the white, and as fundamentally promiscuous. In short, the black woman is seen as a highly erotic being whose primary function is fulfilling sexual desire and reproduction. To be sure, any amount of "penis" in either one represents a threat, but in his most familiar and typical forms the black man represents the act of rape- "raping" -while the black woman is seen as the most legitimate victim of rape- "being raped." In an antiblack world black women appear as subjects who deserve to be raped and to suffer the consequences-in terms of a lack of protection from the legal system, sexual abuse, and lack of financial assistance to sustain themselves and their families-just as black men deserve to be penalized for raping, even without having committed the act. Both "raping" and "being raped" are attached to blackness as if they form part of the essence of black folk, who are seen as a dispensable population. Black bodies are seen as excessively violent and erotic, as well as being the legitimate recipients of excessive violence, erotic and otherwise." "Killability" and "rapeability" are part of their essence, understood in a phenomenological way. The "essence" of blackness in a colonial anti-black world is part of a larger context of meaning in which the death ethics of war gradually becomes a constitutive part of an allegedly normal world. In its modern racial and colonial connotations and uses, blackness is the invention and the projection of a social body oriented by the death ethics of war." This murderous and raping social body projects the features that define it onto sub-Others in order to be able to legitimate the same behavior that is allegedly descriptive of them. The same ideas that inspire perverted acts in war--particularly slavery, murder, and rape--are legitimized in modernity through the idea of race and gradually come to be seen as more or less normal thanks to the alleged obviousness and non-problematic character of black slavery and anti-black racism. To be sure, those who suffer the consequences of such a system are primarily blacks and indigenous peoples, but it also deeply affects all of those who appear as colored or close to darkness. In short, this system of symbolic representations, the material conditions that in part produce and continue to legitimate it, and the existential dynamics that occur therein (which are also at the same time derivative and constitutive of such a context) are part of a process that naturalizes the non-ethics or death ethics of war. Sub-ontological difference is the result of such naturalization and is legitimized through the idea of race. In such a world, ontology collapses into a Manicheanism, as Fanon suggested."

#### The only ethical response is decolonization.

Tuck and Yang 12

(Eve Tuck, Unangax, State University of New York at New Paltz K. Wayne Yang University of California, San Diego, Decolonization is not a metaphor, Decolonization: Indigeneity, Education & Society Vol. 1, No. 1, 2012, pp. 1-40, JKS)

An ethic of incommensurability, which guides moves that unsettle innocence, stands in contrast to aims of reconciliation, which motivate settler moves to innocence. Reconciliation is about rescuing settler normalcy, about rescuing a settler future. Reconciliation is concerned with questions of what will decolonization look like? What will happen after abolition? What will be the consequences of decolonization for the settler? Incommensurability acknowledges that these questions need not, and perhaps cannot, be answered in order for decolonization to exist as a framework. We want to say, first, that decolonization is not obliged to answer those questions - decolonization is not accountable to settlers, or settler futurity. Decolonization is accountable to Indigenous sovereignty and futurity. Still, we acknowledge the questions of those wary participants in Occupy Oakland and other settlers who want to know what decolonization will require of them. The answers are not fully in view and can’t be as long as decolonization remains punctuated by metaphor. The answers will not emerge from friendly understanding, and indeed require a dangerous understanding of uncommonality that un-coalesces coalition politics - moves that may feel very unfriendly. But we will find out the answers as we get there, “in the exact measure that we can discern the movements which give [decolonization] historical form and content” (Fanon, 1963, p. 36). To fully enact an ethic of incommensurability means relinquishing settler futurity, abandoning the hope that settlers may one day be commensurable to Native peoples. It means removing the asterisks, periods, commas, apostrophes, the whereas’s, buts, and conditional clauses that punctuate decolonization and underwrite settler innocence. The Native futures, the lives to be lived once the settler nation is gone - these are the unwritten possibilities made possible by an ethic of incommensurability. *when you take away the punctuation he says of lines lifted from the documents about military-occupied land its acreage and location you take away its finality opening the possibility of other futures* -Craig Santos Perez, Chamoru scholar and poet (as quoted by Voeltz, 2012) Decolonization offers a different perspective to human and civil rights based approaches to justice, an unsettling one, rather than a complementary one. Decolonization is not an “and”. It is an elsewhere.

## 1NC – Counter Method

#### The appropriation of outer space by private entities is unjust in all instances except Active Debris Removal.

#### We ought to permit the appropriation of outer space for designated safety zones and tech stationing for active debris removal by private entities.

#### Debris removal is necessary and only private entities have the incentive and capability to do it.

**Giordano 21** (David Giordano is the Vice President of Mentorship for CBLA. Elsewhere at Columbia Law School, he serves on the Columbia Journal of Transnational Law, and is the Treasurer of Columbia OutLaws. During his 1L Summer, David was an intern at the Securities and Exchange Commission’s Division of Corporation Finance. Prior to law school, David worked as a Corporate Paralegal at the New York office of Cleary Gottlieb Steen & Hamilton LLP. David attended The George Washington University where he obtained a B.A. in psychology. “Space Debris: Another Frontier in the Commercialization of Space”. October 31, 2021.)

As **satellites** and other projectiles blast into orbit, upon collision they **can disintegrate into** shards, sometimes just centimeters wide, that remain in orbit, risking further collision. Hollywood captured the potential perils of **fairly large pieces of space debris** in the opening minutes of the 2013 film [*Gravity*](https://www.warnerbros.com/movies/gravity), where space junk threatens the lives of astronauts on a mission. Outside the realms of fictional space-thrillers, even the smallest pieces of **space junk** can **present real danger**. In 2016, a tiny piece of **space junk**, believed to be a paint chip or a piece of metal no more than a few thousandths of a millimeter across, [cracked the window of the International Space Station](https://www.popsci.com/paint-chip-likely-caused-window-damage-on-space-station/). In May 2021, a piece of space **debris** [punctured](https://www.nbcnews.com/science/space/space-junk-damages-international-space-stations-robotic-arm-rcna1067) **the robotic arm of the I**nternational **S**pace **S**tation. This is seriously concerning, as, [according to the European Space Agency](https://www.esa.int/Safety_Security/Clean_Space/How_many_space_debris_objects_are_currently_in_orbit), there are 670,000 pieces of space debris larger than 1cm and 170,000,000 between 1mm and 1cm in width. Unfortunately, **public action and policy struggles to keep up with these risks**. International law affords little clarity on the problem, as its control is a novel, [emerging field](https://www.technologyreview.com/2021/08/23/1032386/space-traffic-maritime-law-ruth-stilwell/) with many technical [tracking](https://www.space.com/space-situational-awareness-house-hearing-february-2020.html) and [removal](https://www.scientificamerican.com/article/space-junk-removal-is-not-going-smoothly/#:~:text=There%20is%20no%20doubt%20that,antisatellite%20weapon%2C%E2%80%9D%20she%20says.) challenges. **None of the existing space treaties** [directly tackle the issue](https://oxfordre.com/planetaryscience/view/10.1093/acrefore/9780190647926.001.0001/acrefore-9780190647926-e-70), rendering [responsibility for it](https://scholarship.law.upenn.edu/jil/vol41/iss1/6/) ambiguous. Absent such responsibility, [legal incentives are non-existent](https://www.courthousenews.com/lack-of-space-law-complicates-growing-debris-problem/)**.** [Guidelines are occasionally issued](https://www.unoosa.org/pdf/limited/l/AC105_2014_CRP14E.pdf) by international governing bodies, but provide little legal significance and are [more targeted at the practicalities of tracking and removal](https://scholarship.law.upenn.edu/jil/vol41/iss1/6/). The nation best positioned to notify space actors of collision risks is the United States, and the burden of that task currently falls on the [Department of Defense](https://www.govexec.com/media/d1-mission-space.pdf). However, the Trump administration issued a [directive in 2018](https://www.cnbc.com/2018/06/18/national-space-council-trump-signs-space-debris-directive.html), shifting the responsibility from the DoD to the Department of Commerce, and the [transition has yet to materialize](https://www.govexec.com/media/d1-mission-space.pdf), leaving DoD struggling to keep pace [with increasing commercial activity](https://www.mckinsey.com/industries/aerospace-and-defense/our-insights/look-out-below-what-will-happen-to-the-space-debris-in-orbit). In the face of public paralysis, **addressing the problem through industry looks** more and **more attractive.** This has led some to call for a new legal order that still leaves room for government, but reframes who the rules exist to serve. Rather than our current, rudimentary treaty regime designed to [prevent international conflict](https://www.theverge.com/2017/1/27/14398492/outer-space-treaty-50-anniversary-exploration-guidelines), [commentators](https://space.nss.org/wp-content/uploads/NSS-Position-Paper-Space-Debris-Removal-2019.pdf) have called for an additional regime resembling [maritime law](https://www.technologyreview.com/2021/08/23/1032386/space-traffic-maritime-law-ruth-stilwell/) that preserves the interests of a more diverse set of stakeholders, including those in the future that can bring technology and interests to space that may not yet exist. These commentators shun the common conception that space regulation should resemble air-traffic control, which is suited to a narrower set of uses (transport). Under such a “maritime” regime, the light touch of central regulatory bodies, and perhaps their non-existence, is preferred, just as it has been on the seas. This way, individual nations have a degree of flexibility in instituting controls they see fit while leaving room for industry to address problems and introduce new uses for space. Furthermore, **governments** seem **ready and willing to construct** the **legal** and incentive **framework in concert with** such **private action.** [In a joint statement this summer](https://www.gov.uk/government/news/g7-nations-commit-to-the-safe-and-sustainable-use-of-space), **G7 members expressed openness** to resolving the technical aspects of the debris problem **with private institutions, and there is** some **promising progress**. Apple co-founder [Steve Wozniak](https://www.space.com/apple-cofounder-steve-wozniak-space-junk-company) signaled his plans to address the problem through a new company with a telling name: Privateer Space. **Astroscale**, a UK-based company, successfully **launched a pair of satellites** in the Spring of 2021 [that will remove certain space debris from orbit](https://astroscale.com/astroscale-celebrates-successful-launch-of-elsa-d/)**.** Astroscale also [stated their desire](https://astroscale.com/space-sustainability/) to work with governments and international governing bodies to craft policy with private efforts to control the problem top of mind. In light of public policy’s silence on space debris, the initiative of actors like Astroscale involving themselves in policy may be advised, as it could [promote further private investment](https://docs.google.com/document/d/1NCO5Vvjf-kgoZLNfgaOn4bDj_CAfyD1Qhz2oW3TrcHc/edit) in technology for space **debris removal**. A popular [policy recommendation](https://reason.org/policy-brief/u-s-space-traffic-management-and-orbital-debris-policy/) among experts is the establishment of public-private partnerships, and Astroscale has entered several such agreements including with [Japan](https://www.satellitetoday.com/in-space-services/2021/07/27/space-clean-up-company-astroscale-signs-partnerships-with-mhi-and-japanese-government/) and the [European Space Agency](https://spacenews.com/astroscale-clearspace-aim-to-make-a-bundle-removing-debris/). Other **actors include** [ClearSpace](https://www.space.com/esa-startup-clearspace-debris-removal-2025)**,** [OneWeb](https://www.hou.usra.edu/meetings/orbitaldebris2019/orbital2019paper/pdf/6077.pdf)**, and** [D-Orbit](https://www.satellitetoday.com/in-space-services/2021/09/10/esa-awards-d-orbit-uk-contract-for-debris-removal-demonstration/)**.** Some may want to push back against further private involvement. The congestion of space is, in part, industry’s fault, and if we conceptualize orbital space as a common resource, it might be right to fear the effects of the [Tragedy of the Commons](https://www.britannica.com/science/tragedy-of-the-commons). Critics may seek to bolster international treaties, give legal teeth to the guidelines occasionally issued by the UN, and preserve the public posture of the heavens. These may be welcome adjustments, but unlike a pond that industry overfishes or a well that industry dries up, here industry is working to add more fish and water. Moreover, governments stand to benefit from this private decluttering, as well, as [they are expected](https://astroscale.com/wp-content/uploads/2020/02/Reg-V-Development-of-Global-Policy-for-Active-Debris-Removal-Services-v2.0.pdf) to be major customers of some of these private actors. As for the public posture, space has long been a commercial place. Telecommunications companies and government contractors historically depend on space. As the number of commercial satellites set to launch skyrockets, it seems natural to craft policies that are responsive to their interests and provide incentives to remedy issues created in the course of spacefaring, such as space debris. **In light of the** long silence of international law on such issues and the demonstrated **motivation by private actors**, **space debris represents the latest** frontier **in the abdication of space from the public concern to the private.**

## Case

#### FW – proving justice requires proving its needed – or else it isn’t a just action due to a negative consequence – key to developing solutions and not just talking about problems

#### 1] Public takes over – no limits

#### 2] Shifting blame to private entities via Manifest Destiny when it was just as much governments

#### 3] Saying private companies seize indigenous land is a major link – the occuption of the US is a seizure of indigenous land – they enable viewing reservations as Indigenous and US land as justified when BOTH should be indigenous

### 1NC — Presumption

#### Vote neg on presumption —

#### 1) They have no intrinsic benefit to reading their aff within debate and thus no reason to affirm their strategy.

#### 2) Movements don’t spill up – competition means you ally yourself with people who vote for you and alienate those who are forced to debate you ensuring the failure of the movement.

#### 3) The 1AC’s regurgitation of knowledge proves they’re not a departure from the status quo, but they get coopted by academia.

## A

#### Fiat is illusory statement reequires major settler reconciliation and a move to innocence for the judges – NEGATE to enact settler uncomfortability – voting aff in the finals of a bid tourney would affirm we are doing something to solve while you ignore Decol – ONLY DECOL Solvees