# 1NC TOC Doubles

## 1

### 1nc – t

#### Interpretation: the aff cannot specify a type of space appropriation

#### Bare plurals imply a generic “rules reading” in the context of moral statements

Cohen 1 — (Ariel Cohen, Professor of Linguistics @ Ben-Gurion University of the Negev, PhD Computational Linguistics from Carnegie Mellon University, “On the Generic Use of Indefinite Singulars”. Journal of Semantics 18: 183-209, Oxford University Press, 2001, accessed 12-7-20, HKR-AM) \*\*BP = bare plurals

According to the rules and regulations view, on the other hand, generic sentences do not get their truth or falsity as a consequence of properties of individual instances. Instead, generic sentences are evaluated with regard to rules and regulations, which are basic, irreducible entities in the world. Each generic sentence denotes a rule; if the rule is in effect, in some sense (different theories suggest different characterizations of what it means for a rule to be in effect), the sentence is true, otherwise it is false. The rule may be physical, biological, social, moral, etc. The paradigmatic cases for which this view seems readily applicable are sentences that refer to conventions, i.e. man-made, explicit rules and regulations, such as the following example (Carlson 1995: 225):

(40) Bishops move diagonally.

Carlson describes the two approaches as a dichotomy: one has to choose one or the other, but not both. One way to decide which approach to choose is to consider a case where the behavior of observed instances conflicts with an explicit rule. Indeed, Carlson discusses just such a case. He describes a supermarket where bananas sell for $0.49/lb, so that (41a) is true. One day, the manager decides to raise the price to $1.00/lb. Immediately after the price has changed, claims Carlson, sentence (41a) becomes false and sentence (41b) becomes true, although the overwhelming majority of sold bananas were sold for $0.49/lb.

(41) a. Bananas sell for $0.49/lb.

b. Bananas sell for $1.00/lb.

Consequently, Carlson reaches the conclusion that the rules and regulations approach is the correct one, whereas the inductivist view is wrong.

While I share Carlson’s judgements, I do not accept the conclusion he draws from them. Suppose the price has, indeed, changed, but the supermarket employs incompetent cashiers who consistently use the old price by mistake, so that customers are still charged $0.49/lb. In this case, I think there is a reading of (41a) which is true, and a reading of (41b) which is false. These readings are more salient if the sentence is modified by expressions such as actually or in fact:

(42) a. Bananas actually sell for $0.49/lb.

b. In fact, bananas sell for $1.00/lb.

BP generics, I claim, are ambiguous: on one reading they express a descriptive generalization, stating the way things are. Under the other reading, they carry a normative force, and require that things be a certain way. When they are used in the former sense, they should be analysed by some sort of inductivist account; when they are used in the latter sense, they ought to be analysed as referring to a rule or a regulation. The respective logical forms of the two readings are different; whereas the former reading involves, in some form or another, quantification, the latter has a simple predicate-argument structure: the argument is the rule or regulation, and the predicate holds of it just in case the rule is ‘in effect’.

#### Violation—they specified in situ property

#### Vote neg for predictable limits—specifying a type of appropriation offers a huge explosion in the topic since they get permutations of hundreds of appropriations. Limits explodes neg prep burden and draws un-reciprocal lines of debate, where the aff is always ahead.

#### Competing interps – reasonability is arbitrary and invites intervention

#### No RVI’s – Forces the 1NC to go all-in on Theory which kills substance education,

## 2

### 1nc – t

#### Interpretation – the affirmative must only garner offense from the defending the appropriation of outer space by private entities is unjust.

#### Violation – they defend a plan with an actor states that is extra topical

#### Extra-T and effects T is a voting issue –

#### They justifying adding on anything onto the resolution, which moots 1NC offense– its not what they do its what they justify – clash is the most portable skill in debate because it’s the only unique advantage to the activity that can’t be solved anywhere else. Our interp is key to third and fourth level testing of the aff which results in more rigorous and nuanced debates

## 3

### 1nc – k

#### Settler colonialism is the ontological permeating structure of the nation-state which requires the elimination of indigenous life and land via the occupation of settlers. The appropriation of land turns Natives into ghosts and chattel slaves into excess labor.

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)

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. Slavery in settler colonial contexts is distinct from other forms of indenture whereby excess labor is extracted from persons. First, chattels are commodities of labor and therefore it is the slave’s person that is the excess. Second, unlike workers who may aspire to own land, the slave’s very presence on the land is already an excess that must be dis-located. Thus, the slave is a desirable commodity but the person underneath is imprisonable, punishable, and murderable. The violence of keeping/killing the chattel slave makes them deathlike monsters in the settler imagination; they are reconfigured/disfigured as the threat, the razor’s edge of safety and terror. The settler, if known by his actions and how he justifies them, sees himself as holding dominion over the earth and its flora and fauna, as the anthropocentric normal, and as more developed, more human, more deserving than other groups or species. The settler is making a new "home" and that home is rooted in a homesteading worldview where the wild land and wild people were made for his benefit. He can only make his identity as a settler by making the land produce, and produce excessively, because "civilization" is defined as production in excess of the "natural" world (i.e. in excess of the sustainable production already present in the Indigenous world). In order for excess production, he needs excess labor, which he cannot provide himself. The chattel slave serves as that excess labor, labor that can never be paid because payment would have to be in the form of property (land). The settler's wealth is land, or a fungible version of it, and so payment for labor is impossible.6 The settler positions himself as both superior and normal; the settler is natural, whereas the Indigenous inhabitant and the chattel slave are unnatural, even supernatural. Settlers are not immigrants. Immigrants are beholden to the Indigenous laws and epistemologies of the lands they migrate to. Settlers become the law, supplanting Indigenous laws and epistemologies. Therefore, settler nations are not immigrant nations (See also A.J. Barker, 2009). Not unique, the United States, as a settler colonial nation-state, also operates as an empire - utilizing external forms and internal forms of colonization simultaneous to the settler colonial project. This means, and this is perplexing to some, that dispossessed people are brought onto seized Indigenous land through other colonial projects. Other colonial projects include enslavement, as discussed, but also military recruitment, low-wage and high-wage labor recruitment (such as agricultural workers and overseas-trained engineers), and displacement/migration (such as the coerced immigration from nations torn by U.S. wars or devastated by U.S. economic policy). In this set of settler colonial relations, colonial subjects who are displaced by external colonialism, as well as racialized and minoritized by internal colonialism, still occupy and settle stolen Indigenous land. Settlers are diverse, not just of white European descent, and include people of color, even from other colonial contexts. This tightly wound set of conditions and racialized, globalized relations exponentially complicates what is meant by decolonization, and by solidarity, against settler colonial forces. Decolonization in exploitative colonial situations could involve the seizing of imperial wealth by the postcolonial subject. In settler colonial situations, seizing imperial wealth is inextricably tied to settlement and re-invasion. Likewise, the promise of integration and civil rights is predicated on securing a share of a settler-appropriated wealth (as well as expropriated ‘third-world’ wealth). Decolonization in a settler context is fraught because empire, settlement, and internal colony have no spatial separation. Each of these features of settler colonialism in the US context - empire, settlement, and internal colony - make it a site of contradictory decolonial desires7. Decolonization as metaphor allows people to equivocate these contradictory decolonial desires because it turns decolonization into an empty signifier to be filled by any track towards liberation. In reality, the tracks walk all over land/people in settler contexts. Though the details are not fixed or agreed upon, in our view, decolonization in the settler colonial context must involve the repatriation of land simultaneous to the recognition of how land and relations to land have always already been differently understood and enacted; that is, all of the land, and not just symbolically. This is precisely why decolonization is necessarily unsettling, especially across lines of solidarity. “Decolonization never takes place unnoticed” (Fanon, 1963, p. 36). Settler colonialism and its decolonization implicates and unsettles everyone.

#### Extinction is an empty superlative that teases with global demise to mask structural culpability with the ongoing violences driving extinction – assign their arguments 0 risk.

Mitchell 17 (Audra - holds the the [CIGI Chair](https://www.balsillieschool.ca/faculty/cigi-chairs) in Global Governance and Ethics at the [Balsillie School of International Affairs](https://www.balsillieschool.ca/) and is an Associate Professor at Wilfrid Laurier University, Canada. 9/27/17. “Decolonizing against extinction part II: Extinction is not a metaphor – it is literally genocide” <https://worldlyir.wordpress.com/2017/09/27/decolonizing-against-extinction-part-ii-extinction-is-not-a-metaphor-it-is-literally-genocide/>)//kbuck

Extinction has become an emblem of Western, and white-dominated, fears about ‘the end of the(ir) world’. This scientific term is saturated with emotional potency, stretched and contorted to embody almost any nightmare, from climate change to asteroid strikes. In academic and public contexts alike, it is regularly interchanged with other terms and concepts – for instance, ‘species death’, global warming or ecological collapse. Diffused into sublime scales – mass extinctions measured in millions of (Gregorian calendar) years, a planet [totalized by the threat of nuclear destruction](http://journals.sagepub.com/doi/abs/10.1177/0306312709341598) – ‘extinction’ has become an empty superlative, one that that gestures to an abstract form of [unthinkability.](http://journals.sagepub.com/doi/abs/10.1177/1354066116632853) It teases Western subjects with images of generalized demise that might, if it gets bad enough, even threaten us, or the [figure of ‘humanity’ that we enshrine as a universal.](https://www.routledge.com/International-Intervention-in-a-Secular-Age-Re-Enchanting-Humanity/Mitchell/p/book/9780415705066) This figure of ‘humanity’, derived from Western European enlightenment ideals, emphasizes individual, autonomous actors who are fully integrated into the global market system; who are responsible citizens of nation-states; who conform to Western ideas of health and well-being; who partake of ‘culture’; who participate in democratic state-based politics; who refrain from physical violence; and who manage their ‘resources’ responsibly (Mitchell 2014).

Oddly, exposure to the fear of extinction contributes to the formation and bolstering of [contemporary Western subjects](http://journals.sagepub.com/doi/abs/10.1177/0263276415619219). Contemplating the sublime destruction of ‘humanity’ offers the thrill of [abjection:](https://www.amazon.ca/Powers-Horror-Abjection-Julia-Kristeva/dp/0231053479) the perverse pleasure derived from exposure to something by which one is revolted. C[laire Colebrook](http://www.openhumanitiespress.org/books/titles/death-of-the-posthuman/) detects this thrill-seeking impulse in the profusion of Western blockbuster films and TV shows that imagine and envision the destruction of earth, or at least of ‘humanity’. It also throbs through a flurry of recent best-selling books – both fiction and speculative non-fiction (see [Oreskes and Conway 2014](https://www.amazon.ca/dp/B00K33E4J2/ref=dp-kindle-redirect?_encoding=UTF8&btkr=1); [Newitz 2013](https://www.amazon.com/Scatter-Adapt-Remember-Survive-Extinction/dp/0307949427); [Weisman 2008](http://www.worldwithoutus.com/)). In a forthcoming intervention, [Noah Theriault](http://www.history.cmu.edu/faculty/theriault.html) and I (2018) argue that these imaginaries are a form of porn that normalizes the profound violences driving extinction, while cocooning its viewers in the secure space of the voyeur. Certainly, there are many Western scientists, conservationists and policy-makers who are genuinely committed to stopping the extinction of others, perhaps out of fear for their own futures. Yet extinction is not quite real for Western, and especially white, subjects; it is a fantasy of negation that evokes thrill, melancholy, anger and existential purpose. It is a metaphor that expresses the destructive desires of these beings, and the negativity against which we define our subjectivity.

But extinction is not a metaphor: it is a very real [expression of violence](https://worldlyir.wordpress.com/2017/07/28/decolonizing-against-extinction-part-i-extinction-is-violence/) that systematically destroys particular beings, worlds, life forms and the relations that enable them to flourish. These are real, unique beings, worlds and relations – as well as somebody’s family, Ancestors, siblings, future generations – who are violently destroyed. Extinction can only be used unironically as a metaphor by people who have never been threatened with it, told it is their inevitable fate, or lost their relatives and Ancestors to it – and who assume that they probably never will.

This argument is directly inspired by the call to arms issued in 2012 by [Eve Tuck and Wayne K. Yang](http://decolonization.org/index.php/des/article/view/18630) and more recently by [Cutcha Risling-Baldy](http://decolonization.org/index.php/des/article/view/22155). The first, seminal piece demonstrates how settler cultures use the violence of metaphorical abstraction to excuse themselves from the real work of decolonization: ensuring that land and power is in Indigenous hands. Risling-Baldy’s brilliant follow-up extends this logic to explain how First People like Coyote have been reduced to metaphors through settler appropriation. In both cases, engagement with Indigenous peoples and their relations masks moves to innocence: acts that make it appear as if settlers are engaging in decolonization, while in fact we are consolidating the power structures that privilege us.

In this series, want to show how Western, and white-dominated, discourses on ‘extinction’ appear to address the systematic destruction of peoples and other beings while enacting moves to innocence that mask their culpability and perpetuate structures of violence. As I argued in [Part I of this serie](https://worldlyir.wordpress.com/2017/07/28/decolonizing-against-extinction-part-i-extinction-is-violence/)s, extinction is an expression of colonial violence. As such, it needs to be addressed through direct decolonization, including the dismantling of settler colonial structures of violence, and the resurgence of Indigenous worlds. Following Tuck, Yang and Risling-Baldy’s lead, I want to show how and why the violences that drive extinction have come to be invisible within mainstream discourses. Salient amongst these is the practice of genocide against Indigenous peoples other than humans.

…it is literally genocide.

What Western science calls ‘extinction’ is not an unfortunate, unintended consequence of desirable ‘human’ activities. It is an embodiment of particular patterns of  structural violence that disproportionately affect specific racialized groups.  In some cases, ‘extinction’ is directly, deliberately and systematically inflicted in order to create space for aggressors, including settler states. For this reason, it has rightly been framed as an aspect or tool of colonial genocides against Indigenous human peoples. Indeed, many theorists have shown that the ‘extirpation’ of life forms (their total removal from a particular place) is an instrument for enacting genocide upon Indigenous humans (see [Mazis 2008;](https://www.academia.edu/10310917/Mazis_The_World_of_Wolves_Lessons_about_the_Sacredness_of_the_Surround)[Laduke 1999](https://www.amazon.ca/All-Our-Relations-Native-Struggles/dp/0896085996); [Stannard 1994](http://www.oupcanada.com/catalog/9780195085570.html)). Specifically, the removal of key sources of food, clothing and other basic materials makes survival on the land impossible for the people targeted.

#### Their understanding of “space” replicates a Western theorization of place as neutral space that relegates indigenous peoples to colonial authority by creating “cultural blanks” to be filled in by peaceful settlement

Barker and Pickerill 12 (Adam J Barker, and Jenny Pickerill, Department of Geography @ Univ of Leicester. “Radicalizing Relationships To and Through Shared Geographies: Why Anarchists Need to Understand Indigenous Connections to Lands and Place” Antipode.

Colonial Impacts on Perceptions of Place Indigenous understandings of place have generated criticism of many aspects of society in the northern bloc: Christian theology’s influence on political and economic colonial practice (Deloria 2003); the concept of “sovereignty” and the state system (Alfred 2006); constitutionalism as a method of governmental organization (Tully 1995; 2000); capitalism and relationships under a capitalist system (Adams 1989:17); language and culture (Basso 1996) and many other understandings of place, space, nature, and human relationships. Indigenous relationships to place fundamentally challenge colonial spatial concepts, from the ways that we move from place to place and through spaces (Pandya 1990) to how we move through time (Jojola 2004). Indeed Coulthard (2010:79) asserts that for Indigenous people place is central to understandings of life, whereas “most Western societies . . . derive meaning from the world in historical/developmental terms, thereby placing time as the narrative of central importance”. Historically, EuroAmerican cultures conceived of human relations to the environment in one of two ways, which John Rennie Short labels the “classical and romantic” (Short 1991:6): either “natural” places are improved through development and human spatial creation and use (with “wilderness” as a frightening, exterior “ other”), or despoiled through human contact and change (with the natural environment as a pristine and perfect spatial concept, and the suggestion that human identity must be bounded within it). Both conceptually marginalize or fully erase Indigenous presence in place. Contra this erasure, Indigenous peoples’ understandings of place have become important to the understanding of colonial geographies and the efforts of anti-colonial activists.2 Indigenous peoples have traditionally related to place through spatially stretched and dynamic networks of relationships (Cajete 2004; Johnson and Murton 2007). These networks bear some resemblance to Sarah Whatmore’s concept of hybrid geography, “which recognizes agency as a relational achievement, involving the creative presence of organic beings, technological devices and discursive codes, as well as people, in the fabrics of everyday living” (Whatmore 1999:26). Through these, Indigenous peoples have challenged the classical/romantic dichotomy that continues to haunt some aspects of anarchist spatial perceptions. For Indigenous peoples, place holistically encapsulates networks of relations between humans, features of the land, non-human animals, and living beings perceived as spirits or non-physical entities. All of these—humans included— are understood to have autonomy and will, but also obligation and responsibility to all of the other elements to which they are related and among whom they are situated. As such, we acknowledge that land and place are different to each other but seek to use the way they are interrelated throughout this article. Although land can be considered as material, its meaning is constantly interwoven into the relationality of place so that land is often taken to have multiple meanings beyond its simple materiality—as a resource, as identity and as relationship (Coulthard 2010). Indigenous peoples assaulted by settler colonization have and continue to face concerted attempts to break Indigenous connections to place. Religious conversion, for example, has had a massive impact on the ways that Indigenous peoples perceive the spaces occupied by spirit and otherwise metaphysical beings. Though no longer considered “tantamount to a complete transformation of cultural identity” (Axtell 1981:42), conversion to and participation in hierarchical-organized, spatially dislocated, and temporally defined Judeo-Christian religions (Deloria 2003:62–77) encouraged Indigenous peoples to see the spiritual as something above (literally) and beyond the direct contact of the human world. The general result is displacement and dislocation.

#### International law is a eurocentric notion used to objectify and make dispensible non-european subjects

Mignolo 9 (Walter, Professor of Literature and Romance Studies at Duke University,Dispensible and Bare Lives. Coloniality and the Hidden Political/Economic Agenda of Modernity. HUMAN ARCHITECTURE: JOURNAL OF THE SOCIOLOGY OF SELF-KNOWLEDGE, VII, 2, SPRING 2009, 69-88)

International Law is an integral part of¶ coloniality: it legalizes the rhetoric of modernity while simultaneously enforcing the¶ logic of coloniality. It was prompted by the¶ “discovery” of unknown lands and unknown people; and by trafﬁc of enslaved¶ Africans to the New World. In 1979, U.O.¶ Umozurike, from the University of Nigeria,¶ published a report on International Law and¶ Colonialism in Africa. The book was published by Nwamife Publisher Limited, in¶ Enugu, Nigeria. Given the book-market¶ and the trade-names of European and US¶ scholars and intellectual, the book did not¶ get much attention, beyond a numerical¶ minority interested in the topic. In the¶ 1990s Siba N’Zatioula Grovogui, an African¶ political theorist based at John Hopkins¶ University, followed up on the issue re viewing international law in the modern/¶ colonial world from the histories of colonial¶ Africa and the colonial experience of Africans. For the purpose at hand, here is a¶ lengthy paragraph that would help us in¶ unveiling the interconnections between international law, dispensable and bare lives: ¶ As a constituent element of Western culture, the law of nations has¶ been integral to a discourse of inclusion and exclusion. In this regard, international law has formed¶ its subject and objects through an¶ arbitrary system of signs. As rhetoric of identity, it has depended¶ upon metaphysical associations¶ grounded on religious, cultural, or¶ racial similarities and differences.¶ The legal subject, for the most part,¶ has been composed of a Christian/¶ European self. In contrast, the European founders of the law of nations created an opposite image of¶ the self (the other) as a legal object.¶ They materialized this legal objectiﬁcation of non-Europeans¶ through a process of alterity. The¶ other has comprised, at once, nonEuropean communities that Europe has accepted as its mirror image and those it has considered to¶ be either languishing in a developmental stage long since surpassed¶ by Europe or moving in historical¶ progression toward the model provided by the European self (Grovogui, 1996, 65). ¶ The simultaneous epistemic process of¶ inclusion/exclusion, led ﬁrst by Christian¶ theology, later on by philosophy and science, and lately by political economy supported by political theory, of which¶ international law was and continues to be a¶ key instrument, is at the historical foundation of the modern/colonial world, of modernity/coloniality and of imperial¶ capitalism. Francisco de Vitoria in Salamanca, Spain, in the mid sixteenth century;¶ Hugo Grotius in the Netherland at the beginning of the seventeenth century; and¶ Seraphin de Freitas, in Portugal, critically¶ responding to Hugo Grotious, constitute¶ three pillars of International Law in the historical foundation of the modern/colonial¶ world. Subjects whose subjectivities and¶ sensibilities have not been formed by the¶ European memories of Greece and Rome,¶ of Greek and Latin, and by its modern imperial languages (Italian, Portuguese,¶ Spanish, French, German and English), began to be constructed, in the European discourse of international law, as legal objects.¶ “Legal objects” have been stripped of their¶ language, religions, families, communities,¶ sensibilities, memories—in sum, legal objects became, for European international¶ law, not only bare but above all dispensable¶ lives. If non-European people were and are¶ targets of commodiﬁcation of human lives,¶ they are also targets to be outlawed. As legal objects, non-European subjects had no¶ say in International Law, unless they¶ agreed with the terms stipulated by European law-makers.

#### The discourses of health are haunted by the Native. It is the specter of the Native as the corporal and geospatial locus of disease which howls beyond the grave.

Belcourt 17 (Billy-Ray, Driftpile Cree Nation, 2016 Rhodes Scholar, Reading for an M.St. in Women's Studies at the University of Oxford and Wadham College "Meditations on reserve life, biosociality, and the taste of non-sovereignty" Settler Colonial Studies, pp. 2-8) NIJ

The main argument of this paper is that the feeling of indigeneity is the miserable feeling of not properly being of this world, and that a disease like diabetes mellitus is a key manifestation of this sort of exhausted existence. To do this, I pursue the secondary claims that indigeneity is a zone of biological struggle and that the reserve is something of a non-place calibrated by affects I want to group under the sign of misery. Yes, misery is a bad word. Harsh, even. But I think it is big enough to conceptualize the cramped conditions under which life is haphazardly improvised on the reserve. Misery wears you down, effecting both a corporeal fragility and an intellectual fatigue that double as sociality’s background noise. I am recruiting misery here because it does not rest on the eventful. Instead, it blends into ordinary time. It is possible to make joy or to feel enlivened within a miserable context. But, misery circumscribes the body’s potentialities. If misery is a part of slow death’s arsenal, if it hangs ‘in the air like a rumor’,6 then there is no easy way out. Existence is what taxes.7 If the reserve is a geography of misery, then it is where being in life feels like falling out of it. There, negative affect bubbles just below a collective ‘threshold of awareness’,8 but nonetheless fills out a confined area, mutating over time into the bodies that people it. Misery flattens subjectivity and makes us submit to its tempos, operating here as both a pesky obstacle to radical worldings and as an affective atmosphere that ‘hover[s] around daily practices of survival’.9 Unlike the cruel optimist about which Lauren Berlant writes,10 the band member is not oblivious to the cruelties of her object attachments. She knows or is repeatedly told they are damaging, but cannot easily forge new ones, if only because the reserve absents the possibility of making life unhinged by the rote of premature death. She is stuck in a rut that was dug in the name of a colonial ethos bent on disappearing Indians from the future, a rut whose chronic episodes of biopolitical tragedy are somehow still bearable by those who endure them. The goal is not to be better at life, but simply to keep at it, even if ‘it’ taxes and eschews happiness without becoming too conspicuous. The reserve is thus where we should go to think about what happens when surplus populations get stowed away from the ‘what’ of what makes life worth living, if we describe ‘life’ as a mix of reckless capitalist worldings and racist histories of uneven precarity and safety. Here, I want to ask the tricky question: might biosocial trauma partly make up indigeneity’s racial terrain? For me, the biosocial is where biology’s politics are thinkable, where bodily production and statecraft meet, where sickness coheres as a racialized symptom of a world that is not good for most of us. The biosocial is where disease’s raciality takes shape. As I see them, indigeneity and sickness are co-constitutive categories in a day and age where health is the biopolitical measure of a subject’s ability to adjust to structural pressures endemic to the affective life of setter colonialism. This is thus also a story about the politics of interpretation, about how we take stock of the horrors of Indigenous embodiment and how we might do it differently. If indigeneity is where the fantasy of self-sovereignty is especially weak (none of us are self-sovereign), then colonial publics hone in on and amplify this weakness to show that the world is not ours to freely inhabit. Again, in what follows, I take diabetes mellitus as a case study in the quiet forms of non-sovereignty that proliferate on the reserve, a place where living, dying, and failed flourishing always hang in the balance.11 2 B.-R. BELCOURT Downloaded by [Lorenzo Veracini] at 22:07 10 October 2017 Dying and misery are affective bedfellows. ‘Dying’ is an adjective used to describe a noun ‘on the point of death’. To be ‘on the point of death’ is to exhibit a mode of being in the world that leaves loose ends untied. This is to say (1) that death’s origin story amasses small and big culprits as time passes such that it becomes laborious to track its long political history. Scapegoats like genes, for example, dilute the recent past’s lethal ecologies. And (2) that there is an indeterminacy with which subjects and objects die: slowly or quickly, suspiciously or predictably – or a cacophonous mix of all of these. There is always something left to be said at the funeral. One of the conditions of Indigenous life today is manslaughter hidden under the ruse of botched ways of populating the world. ‘Dying’ is a present participle too: it describes the affective energies of an inchoate happening, or time’s rupture between life as we knew it and death. It is a process of becoming liminal that is phenomenologically promiscuous. Its affects range from shock to agony to a kind of cold sobriety. Death’s grammar is telling: to die is to have been dying, and ‘has been’ takes a subject and the ‘of’ or the ‘from’ of ‘dying’ piece together a causal relation that looks like a crime scene. Is dying worth zeroing in on if it could be said that we are all dying, that to be human or to be in life is in fact to be dying? Of course, though, death is not fairly apportioned when empire’s worlds are wrangled together by the unlivability of toxic pockets of minoritarian life. And, dying unevenly stands in for ordinary life’s sociability in a big world whose public feelings circulate in the build up before and in the aftermath of racial crisis. Perhaps dying is the racialized state of not properly ‘having’ or ‘being in’ a body.12 Perhaps it is where the advance of life eventually gets quasi-melodramatic via a biopolitical drive to palliate racial surplus until an assailant (the state) gets acquitted by time’s shoddy memory work and all you are left with is a body beside itself. The reserve, however, is a site of augured disappearance propped up in the wake of insidiously lawful world-breaking events,13 ones whose delayed traumas fester beneath the skin. For Donna Haraway, the Anthropocene – the current geological era in which the social is animated by human-made ecological catastrophe and the anxieties produced by it – pressures us to strategize about what she calls ‘the arts of living on a damaged planet’.14 Indigenous worlds, however, have been sutured by this sort of apocalypticism for quite some time now.15 The arts of living on a damaged reserve have little do with building pleasurable collectivities, as Haraway sees it globally. Rather, we have to figure out how to ward off an impoverished social life that our cells know is coming. What does it mean to politically commit to a place that wears you down in order to maintain an allegiance to indigeneity’s visible cultural forms? Is this all some of us have left? Here is the historical aporia: in a twenty-first-century Canada manned by a liberal prime minister dedicated to politically diluted forms of reconciliation, Indigenous peoples are nonetheless still feeling the affective wrath of the long-twentieth century’s colonial statecraft. 16 Justin Trudeau’s is a national culture of sentiment that buries his and previous Canadas’ complicities in decades-long biological warfare against Indigenous life. Speaking to an audience of residential school survivors during the launch of the final report of the Truth and Reconciliation Commission of Canada in December 2015, Trudeau said: To the former Indian residential school students who came forward and shared your painful stories, I say: thank you for your extraordinary bravery and for your willingness to help SETTLER COLONIAL STUDIES 3 Canadians understand what happened to you…The burden of this experience has been on your shoulders for far too long. The burden is properly ours as a government, and as a country …This is a time of real and positive change.17 Note how Trudeau’s authoritative speech acts fail also to be performative, if performative speech aims to bring about that which it names.18 His tears are epistemological hallucinogens, 19 luring us into an era of settler governance he vows is attuned to Indigenous grievances, one that pledges to stop hurting us. That is, he lauded Indigenous elders for opening themselves up to a nation-state that broke open their worlds, assuring them that the past’s injustices would not live again in the present. Alas, bad feelings do not go away because a head of state asks them to, especially if the conditions under which they germinate are left intact. The affect of the now and the near future is sickness, and this is a structural diagnosis. The reserve, then, is where life is lived at the edge of the world, a bio-necropolitical gulag of sorts where slow death stunts indigeneity’s future-bearing potentiality. Put differently, it is an incubator of deadened life, where the plasticity of the life-death binary is worked up so as to harvest bodies that are stripped of vitality and sensation. For Jasbir Puar, the ‘bio-necro collaboration’ is where the sovereign thirst for blood and the management of biological life operate harmoniously – an addendum to Foucault’s biopower, which Puar argues overlooks ‘biopower’s direct activity in death’ in a so-called age of terror.20 As Scott Morgensen pointed out in 2012, settler colonialism too churns out its own type of biopower, one that aggressively seeks to eliminate and then replace Indigenous peoples, and coterminously to extend the ‘West’s’ juridical reach across the globe. Indeed, to make everywhere its colony.21 My claim, then, is that the reserve worlds death-worlds, to use Achille Mbembe’s term,22 whose poisonousnesses flatten into indigeneity’s hardened arenas of life. It is a coral whose biopower is characterized by the mismanagement of biological life, where disease control has been avoided as a method of ethico-political abandonment. Sometimes negligence is the form that state power takes. Which is to say that ongoingness on the reserve is an aspirational deadlock stymied by negative affects like hunger, nausea, and dizziness. For Sara Ahmed, this style of getting by produces a racial fatalism of sorts. She writes, ‘some are assumed to be inherently broken as if their fate is to break’.23 If we die, things go on as if nothing happened. Indeed, some die so that ‘the nothing’ can happen. Those that do not neatly or properly enflesh the human as such occupy the social as if they were always-already missing something, as if they were broken beyond repair. We might ask: what does it mean to be with feelings of loss in a world in which losing things is a condition of political becoming, a world in which maintaining one’s attachments to life routinely becomes too tiring to keep up with? What does dying’s repetition do to the ordinary’s promise to keep us a part of something durable? These questions point to the plight of those doomed to shoulder health’s discontents. Put differently, disease cathects indigeneity within a present that is not only not enough, but also deadly – a present which generates forms of non-sovereignty that are tasted. According to Berlant and Lee Edelman, non-sovereignty is ‘the notion of a subject’s constitutive division that keeps us, as subjects, from fully knowing or being in control of ourselves’. 24 For Berlant, love launches something of a becoming-non-sovereign, as it compels us to submit to its potentialities while rendering unpredictable the substance of the future.

#### Err heavily neg to check for cognitive bias that artificially inflates the benefits of space expansionism and drives modern space activity – it’s embedded within a broader metanarrative about Settler-Colonialism on the Earth, with Space being analogized to the “final frontier” that Settlers are naturally predestined to exploit. Support for the “validity” of the space expansion narrative then justifies all violent conquest and colonialism by positing it as the natural relation between humans, Earth, and the cosmos – that turns the case and controls the root cause to their offense

Deudney 20 (Daniel Deudney – PhD in Political Science @ Princeton University, “Dark Skies: Space Expansionism, Planetary Geopolitics & The Ends of Humanity”, 2020, pgs. 12-13, EmmieeM)

The projects advanced by space expansionists, and the problems they seek to address, gain further intellectual power because they are embedded in a larger metanarrative about humanity, Earth, and cosmos, an epic story that connects past, present, and future. Space expansionism seamlessly combines Big History with Big Futurism. Space expansionism is more than the sum of its programmatic parts because it advances a comprehensive account, a narrative whole, in which its many projects are nested. The space expansionist narrative has extremely broad spatial and temporal scope, offering a macrohistorical, planetary scale account of human development and its interaction with nature. Space expansionists tell this large story about the human past and present, and then extrapolate it into imagined space futures. In this story, the present sits at a decisive intersection point, culminating millennia of steadily rising interdependence and interaction on the Earth, but at the threshold of an ultimately limitless expansion across the “final frontier” of cosmic outer space (see Figure 1.2). In an era when Grand Narratives—particularly those associated with the Enlightenment—have become suspect among the humanistic intelligentsia, space expansionists cast themselves as the avant-garde of technological civilization and advance the most comprehensively progressive Grand Narrative of Enlightenment modernity

This narrative employs numerous geohistorical analogies suggesting that expansion into outer space continues patterns of spatial expansion across Earth history. In the largest temporal frame, the space enterprise is likened to the expansion of organic life on Earth, as well as many historical terrestrial expansions of humanity on Earth. Familiar Earth geographic features, notably oceans, islands, and frontiers, are analogized with the features of outer space. In this story, technological advancement, from the control of fire and the invention of clothing to large sailing ships and malaria prophylaxis turn formidable natural barriers into new frontiers, enabling humans to expand their habitats through further exploration, conquest, and colonization, a pattern that will continue as new technologies enable expansions into outer space. This expansion narrative gains further credibility by incorporating powerful high modernist Promethean ideas about the cosmos, nature and life, and scientific and technological progress. Although expansionists claim space ventures will benefit all humanity, they also anticipate special advantage for those who first undertake them, while peoples who fail to seize opportunities for space expansion will fall behind.

#### Thus, the only alternative is decolonization. The judges should prioritize centering indigenous scholarship and resistance – any ethical commitment requires that the aff places itself in the center of native scholarship and demands.

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.

#### Our interpretation is that the judge ought to evaluate the aff as a research project – they don’t get to weigh the material implementation of the case

#### 1. Plan focus restricts the debate to a ten second statement and leaves the rest of the aff unquestioned. They should be responsible for the way their knowledge is constructed and used because that produces the best model for activism and ethics in the context of their aff

#### 2. The K is a prior question – it informs the value of the game – if we win debate trains students to be violent outside of their rounds, that should come first

#### 3. Performance DA – you’re an educator responsible for judging the behavior and scholarly production of the aff – that means you should TKO them if we win a link

#### 4. George Bush DA—justifications and representations influence our political advocacy. Even though George Bush and Marxists both hate Donald Trump, the reasons why matter as much. Winning a link argument means that their political advocacy looks more like a blue lives matter trust fund rather than anti-racist movements.

#### 5. Independently, vote neg on presumption—the affirmative does nothing. Voting aff won’t produce the advantages discussed, but our theory arguments spill up to how we view policies/debate, so vote negative because the aff cant alter material conditions in the world.

## Case

### Framing

#### Extinction first/consequentlism –

#### 1. Risk of extinction focus paralyzes action – any action has a risk of causing extinction but so does not acting – we’d have to listen to a random person who told us to jump out of the building right now or else extinction would happen

#### 2. This assumes we don’t know what’s ethically bad but we don’t need more time to morally figure out that structural violence like racism is wrong – if there’s a high risk of that vote NEG

#### 3. This is another link – it justifies the 1% risk cheney doctrine of intervening in the middle east for a false threat, which was a worse political solution and caused massive suffering – this is the exact fear based politics that all of the K criticizes

#### 4. This assumes rational utilitarian ways of calculating body count but that calculative thought is impossible – state actors aren’t purely rational decision making machines – they’re influenced by subjective standpoints

#### 5. Value to life impact outweighs – we can’t experience ethical value in the first place if people are ontologically excluded by the calculative thought of security

#### 6. Links are offense – we have indicts of every single one of their scenarios that affect the consequences of their policy and the way it’s implemented. This implicates every piece of aff solvency and means they don’t solve extinction and just further participate in genocidal structures.

#### 7. It’s not just pain and pleasure – our ontology claims means settlers find it incredibly pleasurable to do settlerist things

#### 8. any risk of impact D furthers our claims about the settlerist nature of the aff so they’re all additional representaitonal and epistemological links

#### 9. aff has conceded what we do in debate can matter – that was CX – means epistemology influences our decision making

#### Other impacts matter more – THEIR pummer card says

at least when this doesn’t significantly involve doing harm to others or damaging one’s character.

#### so if we win our args then their ONLY card flows neg

#### AT Weiss –

#### 1. This presumes our argument is that futurity period is bad which was not our link argument – it’s about their framing futurity as a question of existential threats for settlers. We can have future oriented politics as it relates to decolonization

#### 2. This presumes that this sort of future scenario planning is available to indigenous people who struggle to survive – future oriented politics are a privilege of the settler who doesn’t have to worry about how to maintain a community in light of settler dominance.

#### 3. Just about the Haida tribe – their application of this to explain all of settler colonialism is homogenizing

### Solvency

#### Prohibit doesn’t mean you don’t do it yourself, nor do private entities have the authority to order other private entities around, which means the aff does nothing

#### Circumvention guaranteed–

#### 1–Enforcement

Jill **Stuart 17**, Visiting Fellow in the Department of Government, London School of Economics and Political Science, 1/27/17, “The Outer Space Treaty has been remarkably successful – but is it fit for the modern age?” http://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381

Space exploration is governed by a complex series of international treaties and agreements which have been in place for years. The first and probably most important of them celebrates its 50th anniversary on January 27 – The Outer Space Treaty. This treaty, which was signed in 1967, was agreed through the United Nations, and today it remain as the “constitution” of outer space. It has been signed and made official, or ratified, by 105 countries across the world. The treaty has worked well so far but challenges have increasingly started to crop up. So will it survive another 50 years? The Outer Space Treaty, like all international law, is technically binding to those countries who sign up to it. But the obvious lack of “space police” means that it cannot be practically enforced. So a country, individual or company could simply ignore it if they so wished. Implications for not complying could include sanctions, but mainly a lack of legitimacy and respect which is of importance in the international arena. However it is interesting that, over the 50 years of it’s existence, the treaty has never actually been violated. Although many practical challenges have been made – these have always been made with pars of the treaty in mind, rather than seeking to undermine it entirely. Challenges so far Although there are many points to consider in the treaty, one of the most important is that outer space is to be used for “peaceful purposes” – weapons of mass destruction cannot be used in space. Another is that celestial territory (such as the moon or Mars), is not subject to “national appropriation” – in other words, no country can lay claim to them. These points have been subject to challenges since the treaty came into play – the first example of such a challenge was the Bogota Declaration in 1976. A group of eight countries tried to claim ownership of a segment of an orbit that was in the space situated above their land - since if their borders projected into the heavens, any “stationary” satellite there would always be within their borders. They claimed that this space did not fall under the definition of “outer space” by the Outer Space Treaty and was therefore a “natural resource”. This declaration was not seen as an attempt to undermine the treaty, but rather to say that orbits that go around the Earth’s equator, or in the direction of the Earth’s rotation, must be owned by the countries beneath. However this was was eventually dismissed by the international community. In 2007 China was thought to have violated the treaty when it shot down one of it’s own weather satellites with a “ground-based medium-range ballistic missile”. This was seen as “aggressive” by Japan, but since the missiles did not come under the definition of “weapons of mass destruction”, it was found that it did not violate the treaty. There was, however, international outcry because of the debris cloud it caused within the orbit. We could do with some updates Despite its importance, we must recognise that the Outer Space Treaty does have some specific failings in the modern era – mainly since it is focused on countries only. Many private companies, such as lunarland, have exploited this and have offered to sell plots of land on celestial bodies such as the moon. Agents doing this justify their activity because the treaty says that territory is not subject to national appropriation – and therefore, this technically means that private companies or individuals could however make claims to celestial territory, since they are not countries. In an attempt to tackle some of the modern-day shortfalls of the treaty, the US government passed the Space Act of 2015, which says that US citizens may engage in the commercial exploration and exploitation of space resources. Although this seems to undermine the space treaty’s ban on anyone owning celestial territory, the Space Act has a clause stating, in simple terms, that the US does not lay claim to, or own, any such thing. This conflict, that indicated that the US “may” be able to claim celestial territory, while not violating the treaty, remains an issue of key debate.

#### 2–Lobbying

**Johnson 20** [Matthew Johnson, PhD, University of Technology Sydney, “Mining the high frontier: sovereignty, property and humankind’s common heritage in outer space,” 2020, PhD Thesis, https://opus.lib.uts.edu.au/handle/10453/142380, EA]

However, the terrestrial history of mineral sovereignty tells us that even modest constraints imposed on private space mining interests may be undermined through the capture of democratic institutions. Private mining firms that have drawn on the political infrastructure of the neoliberal network have proven adept at hindering policies and governments that protect common interests in common spaces, from counter-movements against the nationalisation of mining operations to concerted lobbying efforts against international agreements that seek to impose limits on atmospheric carbon emissions. The US rejection of the Moon Agreement is consistent with neoliberal resistance to protective ‘double movements’ in a host of policy arenas, ranging from the creation of ecological conservation zones and provision of free healthcare, to increasing minimum wages or funding for public education. When the interests of mining capital are supported by and even embedded within political institutions (as in the case of ‘revolving doors’ between industry and public office), a concerted effort will need to be made in domestic and international institutions to push international space law towards anything resembling the ambitions of the Moon Agreement. Given the emergent connections between NewSpace and the Atlas Network, any double movement towards the preservation of intergenerational rights in the space commons would likely meet well-funded and well-organised resistance.

### Advantage 1

#### No card says OST collapse now, internal just says some rules of the road are good – that means they can’t solve

#### Other treaties and legal obligations solve

#### 3. Pershing proves that reform fails – it says that States just reinterpret treaties that they don’t like and do whatever they want. This means that they’ll just reinterpret the AFF as well AND also proves our thesis claim about Settler Colonialism structuring how we act in Outer Space because the irrational drive to expand and consume causes everyone to shift away from policies that on face seem to solve – Harker inserts/reads Yellow

Pershing 19 – Yale J.D. Candidate; director of the Lowenstein International Human Rights Clinic; editor of the Yale Law Journal, the Yale Journal of International Law, and the Yale Law & Policy Review

Abigail Pershing, “Interpreting the Outer Space Treaty’s Non-Appropriation Principle: Customary International Law from 1967 to Today,” *The Yale Journal of International Law*, Vol. 44, No. 1, pg. 157-170, https://openyls.law.yale.edu/bitstream/handle/20.500.13051/6733/Pershing.pdf?sequence=2 DD

II. THE FIRST SHIFT IN CUSTOMARY INTERNATIONAL LAW’S INTERPRETATION OF THE NON-APPROPRIATION PRINCIPLE

Since the drafting of the Outer Space Treaty, several States have chosen to reinterpret the non-appropriation principle as narrower in scope than its drafters originally intended. This reinterpretation has gone largely unchallenged and has in fact been widely adopted by space-faring nations. In turn, this has had the effect of changing customary international law relating to the non-appropriation principle. Shifting away from its original blanket application in 1967, States have carved out an exception to the non-appropriation principle, allowing appropriation of extracted space resources.53 This Part examines this shift in the context of the two branches of the United Nation’s customary international law standard: State practice and opinio juris.

A. State Practice

The earliest hint of a change in customary international law relating to the interpretation of the non-appropriation clause came in 1969, when the United States first sent astronauts to the moon. As part of his historic journey, astronaut Neil Armstrong collected moonrocks that he brought back with him to Earth and promptly handed off to the National Aeronautics and Space Administration (NASA) as U.S. property.54 Later, the USSR similarly claimed lunar material as government property, some of which was eventually sold to private citizens.55

These first instances of space resource appropriation did not draw much attention, but they presented a distinct shift marking the beginning of a new period in State practice. Having previously been limited by their technological capabilities, States could now establish new practices with respect to celestial bodies. This was the beginning of a pattern of appropriation that slowly unfolded over the next few decades and has since solidified into the general and consistent State practice necessary to establish the existence of customary international law.

Currently, the U.S. government owns 842 pounds of lunar material.56 There is little question that NASA and the U.S. government consider this material, as well as other space materials collected by American astronauts, to be government property.57 In fact, NASA explicitly endorses U.S. property rights over these moon rocks, stating that “[l]unar material retrieved from the Moon during the Apollo Program is U.S. government property.”58

The U.S. delegation’s reaction to the language of the 1979 Moon Agreement further cemented this interpretation that appropriation of extracted resources is a permissible exception to the non-appropriation clause of Article II. Although the United States is not a party to the Moon Agreement, it did participate in the negotiations.59 The Moon Agreement states in relevant part:

Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or nongovernmental organization, national organization or nongovernmental entity or of any natural person.60

In response to this language, the U.S. delegation made a statement laying out the American view that the words “in place” imply that private property rights apply to extracted resources61—a comment that went completely unchallenged. That all States seemed to accept this point, even those bound by the Moon Agreement, is further evidence of a shift in customary international law.62

B. Opinio Juris: Domestic Legislation

Domestic law, both in the United States and abroad, provides further evidence of the shift in customary international law surrounding the issue of nonappropriation as it relates to extracted space resources.

Domestic U.S. space law is codified at Section 51 of the U.S. Code and has been regularly modified to expand private actors’ rights in space.63 Beginning in 1984, the Commercial Space Launch Act provided that “the United States should encourage private sector launches and associated services.”64 The goal of the 1984 Act was to support commercial space launches by private companies and individuals.65 It did not, however, specifically discuss commercial exploitation of space. The first such mention of commercial use of space appeared in 2004, with the Commercial Space Launch Amendments Act.66 This Act specifically aimed at regulating space tourism but did not explicitly guarantee any private rights in space.67

The most significant change in U.S. space law came with the passage of the Spurring Private Aerospace Competitiveness and Entrepreneurship (SPACE) Act in 2015. As incorporated into Section 51 of the Code, this Act provides:

A United States citizen engaged in commercial recovery of an asteroid resource or a space resource under this chapter shall be entitled to any asteroid resource or space resource obtained, including to possess, own, transport, use, and sell the asteroid resource or space resource obtained in accordance with applicable law, including the international obligations of the United States.68

Whereas the idea that private corporations might go into space may have seemed far-fetched to the drafters of the Outer Space Treaty, the SPACE Act of 2015 was the first instance of a government recognizing such a trend and officially supporting private companies’ commercial rights to space resources under law. With the new 2015 amendment to Section 51 in place, U.S. companies can now rest assured that any profits they reap from space mining are firmly legal—at least within U.S. jurisdictions.

Although the United States was the first country to officially reinterpret the non-appropriation principle, other countries are following suit. On July 20, 2017, Luxembourg passed a law entitled On the Exploration and Utilization of Space Resources with a vote of fifty-five to two.69 The law took effect on August 1, 2017.70 Article 1 of the new law states simply that “[s]pace resources can be appropriated,” and Article 3 expressly grants private companies permission to explore and use space resources for commercial purposes.71 Official commentary on the law establishes that its goal is to provide companies with legal certainty regarding ownership over space materials—a goal that the commentators regard as legal under the Outer Space Treaty despite the non-appropriation principle.72

The next country to enact similar legislation may be the United Arab Emirates (UAE). According to the UAE Space Agency director general, Mohammed Al Ahbabi, the UAE is currently in the process of drafting a space law covering both human space exploration and commercial activities such as mining.73 To further this goal, in 2017 the UAE set up the Space Agency Working Group on Space Policy and Law to specify the procedures, mechanisms, and other standards of the space sector, including an appropriate legal framework.74

Other major space powers are also considering similar laws in the future, including Japan, China, and Australia. 75 Senior officials within China’s space program have explicitly stated that the country’s goal is to explore outer space and to take advantage of outer space resources.76 The general international trend clearly points in this direction in anticipation of a potential “space gold rush.” 77

C. Opinio Juris: Legal Scholarship

Mirroring the shift in State practice and domestic laws, the legal community has also changed its approach to the interpretation of the nonappropriation principle. Whereas at the time of the ratification of the Outer Space Treaty the majority of legal scholars tended to apply the non-appropriation principle broadly, most legal scholars now view appropriation of extracted materials as permissible.78 Brandon Gruner underscores that this new view is historically distinct from prior legal interpretation, noting that modern interpretations of the Outer Space Treaty’s non-appropriation principle differ from those of the Treaty’s authors.79

In contrast to earlier legal theory that denied the possibility of appropriation of any space resources, scholars now widely accept that extracting space resources from celestial bodies is a “use” permitted by the Outer Space Treaty and that extracted materials become the property of the entity that performed the extraction.80 Stressing the fact that the Treaty does not explicitly prohibit appropriating resources from outer space, other authors conclude that the use of extracted space resources is permitted, meaning that the new SPACE Act is a plausible interpretation of the Outer Space Treaty.81

However, scholars have been careful to cabin the extent to which they accept the legality of appropriation. For instance, although Thomas Gangale and Marilyn Dudley-Rowley acknowledge the legality of private appropriation of extracted space resources, they nonetheless emphasize that “[o]wnership of and the right to use extraterrestrial resources is distinct from ownership of real property” and that any such claim to real property is illegal.82 Lawrence Cooper is also careful to point out this distinction: “[t]he [Outer Space] Treaties recognize sovereignty over property placed into space, property produced in space, and resources removed from their place in space, but ban sovereignty claims by states; international law extends this ban to individuals.”83

Although there remain some scholars who still insist on the illegality of the 2015 U.S. law and State appropriation of space resources generally,84 their dominance has waned since the 1960s. These scholars are now a minority in the face of general acceptance among the legal community that minerals and other space resources, once extracted, may be legally claimed as property. 85

Taken together, the elements described above—statements made in the international arena, de facto appropriation of space resources in the form of moon rocks, the adoption of new national policies permitting appropriation of extracted space resources, and the weight of the international legal community’s opinion—indicate a fundamental shift in customary international law. The Outer Space Treaty’s non-appropriation clause has been redefined via customary international law norms from its broad application to now include a carve-out allowing appropriation of space resources once such resources have been extracted.

III. IMPENDING SECOND SHIFT IN CUSTOMARY INTERNATIONAL LAW’S INTERPRETATION OF THE NON-APPROPRIATION PRINCIPLE

In contrast to Part II, which dealt with customary international law relating to property claims over materials that are extracted from space, this Part explores customary international law in relation to the idea of appropriation of in situ space property. Section II.A first establishes current customary international law norms that prohibit in situ space property ownership via an examination of State practice and opinio juris. Section II.B then suggests that, mirroring the first shift in customary international law norms related to extracted space resources, a nascent second shift in the interpretation of the non-appropriation principle regarding in situ space property ownership is likely on the horizon.

The prospect of high profits from the extraction of space resources will likely incentivize private companies and individuals to pressure States to recognize and protect private in situ property rights—which, as previously discussed, is not expressly prohibited by Article II of the Outer Space Treaty. As increasing government openness to private commercial space activities suggests, States will likely buckle under this pressure and allow private companies or private entities under State control to exercise ownership rights. Unless the international community acts soon to clarify the meaning of the nonappropriation principle of the Outer Space Treaty, it is possible that a second organic shift in customary international law will develop and allow for private ownership of in situ space property in further contravention of the original intent of the Treaty.

A. Current Rejection of Individual Property Rights in Space

Although the internationally recognized scope of the non-appropriation principle has been pared back to allow for the ownership of space resources upon extraction, there is still currently a general acceptance in customary international law that the principle prohibits States, individuals, and private corporations from owning in situ property in space. State practice, domestic legislation, and legal scholarship all tend to support this conclusion.

1. State Practice

Currently, States act in accordance with the original understanding of the non-appropriation treaty insofar as they have not endorsed individuals’ claims to in situ property in space (as distinct from endorsement of property rights to resources after extraction).

One anecdote that exemplifies the United States’ unwillingness to acknowledge private individuals’ in situ property rights in outer space comes from the case Nemitz v. United States.86 On February 12, 2001, NASA’s Near Earth Asteroid Rendezvous Shoemaker became the first spacecraft to land on the surface of an asteroid when it touched down on Eros, a twenty-one-mile long asteroid in the sun’s orbit.87 On February 16, 2001, NASA received a letter from Gregory Nemitz, in which Nemitz claimed ownership over Eros (effectively asserting in situ property rights over the asteroid) and attempted to charge NASA a twenty dollar “parking/storage fee” for NASA’s use of the asteroid.88 NASA General Counsel Edward Frankle’s eventual response, after a series of back-and-forth exchanges, was to deny that Nemitz had any property rights to the asteroid as a celestial body because to acknowledge otherwise would be in contravention of Article II of the Outer Space Treaty.89 The matter was settled in court, with the presiding judge relying on similar reasoning in finding for NASA.90

Other challenges to the principle of non-appropriation of in situ space property, most notably in the Bogotá Declaration of 1976, have also been struck down.91 In the Declaration, eight equatorial nations, including Colombia, Congo, Ecuador, Indonesia, Kenya, Uganda, and Zaire (now the Democratic Republic of the Congo), with Brazil as an observer, claimed sovereignty over in situ space property in the form of geostationary orbits above their territories.92 Geostationary orbits, thirty-six thousand kilometers above Earth’s equator, are particularly valuable because at this distance a satellite orbits the Earth at a speed equal to the Earth’s rotation, allowing that satellite to remain over a fixed point on the Earth’s surface.93 However, the Bogotá Declaration’s attempted appropriation of geostationary orbits was rejected internationally as inconsistent with Article II of the Outer Space Treaty.94

Since the Bogotá Declaration, there have not been any significant challenges to the non-appropriation principle concerning appropriation of in situ space property.95 There are also no major persistent State objectors who claim the right of ownership of in situ property.96 Although customary international law has come to accept State and individual ownership of extracted space resources, current State practice supports the conclusion that appropriation of in situ space property (in the form of entire celestial bodies, as with Eros, or particular swaths of space or orbits, as in the Bogotá Declaration) remains impermissible under the non-appropriation clause of the Outer Space Treaty.

2. Opinio Juris: Domestic Legislation

The United States has ensured that its commitment to the nonappropriation principle (other than the exception discussed above concerning extracted resources) is codified in domestic law. Restricting its otherwise expansive language, the SPACE Act of 2015 reads: “It is the sense of Congress that by the enactment of this Act, the United States does not thereby assert sovereignty or sovereign or exclusive rights or jurisdiction over, or the ownership of, any celestial body.”97

Other countries have also recognized this limitation to private ownership of space in customary international law. For instance, commentary to the new Luxembourg law emphasizes that

[t]he scope of this law is . . . limited to space resources and does not apply to asteroids, comets and celestial bodies as such, whose appropriation is prohibited by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, a.k.a. the 1967 Outer Space Treaty.98

In their explicit compliance with international law, other States’ outer space laws similarly reject private appropriation of space.99

3. Opinio Juris: Legal Scholarship

Legal scholars also generally accept that the non-appropriation principle legally extends to private individuals as well as to States.100 Articulations of this position tend to follow one of three lines of reasoning: (1) Article II implicitly bans individual appropriation; (2) even if Article II does not itself ban individual appropriation, the de facto outcome of the explicit bar in Article II against State appropriation of space will necessarily also preclude meaningful individual ownership; or (3) regardless of the language of Article II, customary international law itself precludes private in situ appropriation of land or property in space. But cracks are emerging even in these three seemingly strong legal arguments.

Several scholars assert that the language of Article II itself implicitly bans individual appropriation. The most straightforward argument in this line of reasoning is that the Treaty precludes all sovereignty and ownership in space and over its celestial bodies, regardless of whether “the claim comes from nation-states, natural persons, or juridical persons,” indicating a complete moratorium on in situ property rights in space.101 Other scholars conclude that Article II implicitly bans private appropriation as well as State appropriation because property ownership implies control over access: given that Article I guarantees universal free access to all celestial bodies, private appropriation of any celestial body cannot legally occur.102

The second approach to the private appropriation question is perhaps the most common: a recognition that Article II does not explicitly or implicitly ban individual appropriation, but that in the absence of State endorsement of these rights (which itself is prohibited), “individual property” as such has no meaning. This approach is exemplified in Fabio Tronchetti’s work. He explains:

[T]here is a general consensus on the fact that both national appropriation and private property rights are denied under the Outer Space Treaty . . . . Private entities are allowed to carry out space activities but, according to Article VI of the Outer Space Treaty, they must be authorized to conduct such activities by the appropriate State of nationality. But if the State is prohibited from engaging in certain conduct, then it lacks the authority to license its nationals or other entities subject to its jurisdiction to engage in that prohibited activity.103

Other scholars make similar arguments. Virgiliu Pop, for instance, claims that “[a]ppropriation of land can exist outside the sphere of sovereignty, but its survival is dependent upon endorsement from a sovereign entity.”104 Because “the Outer Space Treaty prohibits the national appropriation of outer space and celestial bodies,” he argues “a State endorsement would be interpreted as a means of national appropriation, hence it would be unlawful.”105

Finally, approaching the question from a customary international law perspective, Deva Prasad emphasizes that both State practice and opinio juris “clearly support the fact that the non-appropriation principle is a customary international law,” noting “widespread acceptance [of the] non-appropriation principle by the States” as well as the absence of any persistent objectors.106 Thus, even if Article II does not ban private individuals from owning land in and of itself, customary international law in the aggregate is enough to condemn private appropriation of land in space as illegal.

B. Emerging Theories of In Situ Property Rights in Space

Despite the evidence that customary international law currently proscribes in situ appropriation of space property, I argue that a nascent second shift in the interpretation of the non-appropriation principle, which would allow for such in situ ownership, is likely on the horizon. The possibility of such a shift arises from the sheer magnitude of the economic incentives private corporations will have to urge such a recognition. And, if States seek to establish in situ ownership, they will have at their disposal emerging legal arguments pointing to cracks in the theories that the non-appropriation principle bars private ownership of in situ property. Although not yet the basis for any State action, the increasing momentum of these theories portends a second shift in customary international law to allow for in situ ownership of space property.

1. Economic Incentives Portending a Second Shift in Customary International Law’s Interpretation of the Non-Appropriation Principle

The economic incentives for nations with space-faring capabilities to push for a second shift in customary international law’s interpretation of the nonappropriation principle are astronomical. The value of the iron in 16 Psyche alone, an asteroid NASA is planning to explore via spacecraft to be launched in 2023, tops $10,000 quadrillion.107 Although NASA is planning the venture for purely scientific purposes,108 this sort of money creates enormous incentives for private corporations to pressure their governments to secure the international recognition of private property rights.

The current legal regime recognized by States (in which property ownership is recognized for extracted resources only) is likely not enough assurance for commercial enterprises that their investments will be protected. For instance, although the United States has claimed the right to resources once they are extracted from outer space, there would still be significant legal uncertainty as to the rights to outer space mines themselves. Under the current system, China or Russia could legally profit from a U.S.-operated mining facility without having invested any of the initial capital because the Outer Space Treaty prevents the United States from appropriating the land which harbors the mine. There would also be legal questions concerning the establishment of permanent space colonies, a goal several private companies have announced their intention of pursuing.109 Establishing a system of in situ property ownership is therefore likely to be significantly more appealing than a system that allows only for appropriation of extracted resources.

2. Legal Theories Supporting the Right to In Situ Private Property in Space

If States decide to explore this avenue, they will have at their disposal the work of several legal theorists, who rely on appeals to both textual arguments and to the realities of the fragility of space law, to push back against the currently accepted norm that private individuals cannot own land or other property in space. These theorists have been described as a “minority of authors,”110 but their claims may lay the foundation for a second shift in customary law. When technology develops to the point that individual appropriation becomes possible, international norms may shift for a second time, relying on these theories to exclude private individuals and corporations from the ambit of the nonappropriation principle.

From a textual perspective, proponents of this view often rely on the doctrine of expressio unius est exclusio alterius.111 This canon of construction dictates that expressly including one thing implies the exclusion of the alternative. Some legal scholars have applied this canon to the Outer Space Treaty to interpret Article II’s failure to expressly ban private appropriation as an explicit indication that private appropriation is legal. Among such scholars are Alan Wasser and Douglas Jobes, who argue that “if the framers of the Outer Space Treaty had intended to mean that States may not authorize their citizens to do anything which they themselves cannot do, they would have written such language into the Treaty explicitly.”112 Once private individuals or corporations have appropriated space, States would be within their rights to recognize these claims. Thus, for example,

the United States simply could state that it would recognize claims by United States nationals (and perhaps by others as well) who discover valuable deposits of minerals or other wealth . . . . Recognition of these claims (and protection of them, if necessary, from third parties) would not constitute “national appropriation” or the exercise of sovereignty over territory, but rather the exercise of United States jurisdiction over its citizens and of its power to protect them against third parties in international common areas.113

According to some of these theorists, a narrow interpretation of Article II would legally “allow other entities like private companies and non-governmental organizations to appropriate territory.”114

Another textual argument scholars have advanced to support a narrower reading of the non-appropriation principle is that the clause is exceedingly vague, and therefore State parties are free to interpret the principle however each sees fit.115 Instead of waiting years for international consensus and change, the United States on its own authority could simply “ignore the 1967 Space Treaty’s no-sovereignty provision”116 and instead act in accordance with whatever provisions it deemed internally desirable. Putting a finer gloss on what is essentially the same point, Wasser and Jobes’ view is that the non-appropriation principle has proven itself to be ambiguous, and as such, “each signatory must interpret for itself what its obligations are.”117 They later imply that the United States should do what is best for itself—which may mean allowing private appropriation of in situ space property.118 Furthermore, some of these same scholars have suggested that the development of customary international law may not rest solely State actions and may be developed by non-State actors’ actions as well.119 Given the incentives private companies have to promote the right to property ownership in outer space despite Article II of the Outer Space Treaty, this prospect should be particularly disquieting for those who hope for an equitable distribution of space resources.

Accompanying these textual arguments, some scholars have suggested that such a shift would not be difficult to accomplish given the fragility and malleability of customary international law as it relates to space. As Wasser and Jobes point out, the United States and the Soviet Union were able to establish the basis of the customary international law for private appropriation of extracted resources simply by asserting ownership over moon rocks they brought back from space.120 Similarly, as to the establishment of rights to ownership of physical territory in space under customary international law, all that is needed may be “an international private settlement simply landing on and taking possession of a hunk of Lunar land.”121 Although attempting to appropriate the moon would likely generate an international outcry, it is not clear that the appropriation of a distant asteroid would incite significant protest, even though it could lay the foundation for a shift in customary international law.

Significantly, such a shift may occur in State practice even if the legal arguments to support this change are weaker than the arguments supporting a continuation of the prohibition of private appropriation. Should States buckle to private commercial pressures or independently recognize the economic benefits of domestic companies obtaining private property in celestial territory, States would have a newfound interest in recognizing and protecting in situ rights. The legal justifications for de jure or de facto cooperation in non-recognition would likely become subordinate to economic incentives—spurring the adoption of new legal arguments to support shifting State interests.

IV. THE NEED FOR A NEW LEGAL ORDER

Given these trends, the international community would do well to rethink the Outer Space Treaty—and soon. Without a clearer articulation of what the international community agrees is the meaning and scope of the nonappropriation principle, it is entirely possible that States will use legal arguments like the ones outlined above to reinterpret Article II to serve the commercial interests of their domestic companies. Even in this new era of extraterrestrial enterprise, many of the norms underlying the Outer Space Treaty, such as equitable access and peaceful use, would remain important goals shared by members of the international community. Without an internationally agreed-upon principle to guide State and private practice, however, these norms could become unobtainable and the fundamental spirit of the Treaty would again be violated. As Fabio Tronchetti puts it:

[I]f any subject was allowed to appropriate parts of outer space, the basic aim of the drafters of the Treaty, namely to prevent a colonial competition in outer space and to create the conditions and premises for an exploration and use of outer space carried out for the benefit of all States, would be betrayed.122

But this outcome is not inevitable. Although economic pressures may make this second shift unavoidable, the international community still has the chance to orchestrate the manner in which this change occurs and work to set up a legal order to preserve the original goals and purposes of the Outer Space Treaty. This Part first examines various proposals in the literature for property rights allocation systems then proposes a new leasing system modeled on the U.N. Convention on the Law of the Sea (UNCLOS).

#### 4. Tennen says that their I/L to space war is property conflict, which means their impact is inevitable even if they delay it for a little while – Settler Colonialism is a process whereby Indigeneity is assimilated, erased, and pushed to the margins in order to justify the taking of the Land and general material exploitation of it. Settlers will always find themselves in conflicts over property because the drive to endlessly appropriate and move outwards in a new form of Manifest Destiny. The Earth is finite and current tech limitations means Space is functionally finite as well because we simply can’t access more than a sliver of it, which makes we’re going to end up fighting over it. Additionally, our Deudney card says that Outer Space is merely an extension of geopolitics, which is why it must be theorized from the Land – most Space issues are over fighting over orbits for militarization, beefing over ISS control, etc

#### The article title alone proves it – “Enterprise Rights and the Legal Regime for Exploitation of Outer Space Resources” makes it abundantly clear that Tennen is a manual for Space Settler-Colonialism 101 and means that property conflict will inevitably happen because they just fine-tune the exploitation of Outer Space, but don’t

#### 5. No space militarization --- too costly and technologically infeasible --- states prefer ground attacks

Rich Wordsworth 16, UK journalist, and write for Gizmodo, Kotaku and Vice, “Why We'll Never Fight a Real-Life Star Wars Space Conflict”, 18/12/2016, <http://www.gizmodo.co.uk/2015/12/why-well-never-fight-a-real-life-star-wars-space-conflict>

So Why Won’t It Happen? Well, never say never. You might not make to the end of this paragraph before the sky lights up and the world goes dark. **But there are some good reasons to be optimistic that won’t happen. One reassuring factor is that the more other countries develop their militaries, the more dependent on networks they become as well**. China is developing its own drone programme, and so is Russia, which will both presumably be dependent on satellites to operate. **And the more their (and our) economies and business interests develop, the more everyone will rely on satellites to further their economic ambitions. In the event that countries were to start knocking out each other’s satellites on a large scale, the consequences across the board – for everyone – would be disastrous.** It would also be expensive in the short term. **Getting things into orbit – peaceful or otherwise – still isn’t cheap, which is why only a handful of countries regularly do so.** And if you want to blow up a network of many satellites today (as you would have to in a first strike, to ensure other satellites couldn’t pick up the slack), launching small satellites or missiles into orbit is the only practical way to do that – **arming satellites with their own weaponry just isn’t financially or technologically feasible on a grand scale**. We are, happily, a long way from a Death Star. “I don’t think [a large first strike] would be financially too costly [if you’re] thinking about kinetic energy weapons and the air-based or ground-based lasers,” says Jasani. “It’s viable. But if you say, ‘I’m going to put an [ASAT] weapon [permanently] in orbit’, we are then getting into very expensive and very complicated technology. So my guess is that in the foreseeable future, what we are going to focus on are the kinetic energy weapons and possibly lasers that could blind satellites or affect, for example, the solar panels. That kind of technology will be delivered in the foreseeable future, rather than having lasers in orbit [like] the Star Wars kind of thing.” **But there’s another, possibly even more persuasive reason that a kinetic war in space may not happen: it’s just so much easier – and less damaging – to mess with satellites without getting close to them. “Jamming from the ground is not difficult,” says Quintana**. “If you look at the Middle East, pick a country where there’s a crisis and the chances are that the military in that country has tried to jam a commercial satellite to try and avoid satellite TV channels broadcasting anti-government messages.” “**My guess is that by the time we are ready for space warfare, I think you may not be banking on your hit-to-kill ASATs, but more on [non-destructive] high-energy laser-based systems,”** Jasani agrees. **“[Space debris] affects all sides, not just the attacked side.** The attacking side will have its own satellites in orbit, which might be affected by the debris [of its own attack].” And if you really need to remove an enemy’s satellite coverage, you can always try to flatten or hack the control stations on the ground, leaving the satellites talking with no-one to listen. **“I don’t think physically blowing things up from the ground is something that people are looking at again,**” says Quintana. “Countries and governments try to find means other than physical conflict to achieve their strategic ends. **So as space becomes more commercial and more civilian and as more scientific satellites go up, then you’ll find that** states will not seek to directly attack each other**, but will seek other means.** “It may just be that they will try to cyber-attack the satellites and take them over, which has been done in the past. It’s much easier to physically or cyber-attack the ground control station than it is to attack the satellite itself - so why would you not look to do that as a first port of call and achieve the same ends?” Ultimately, then, what might keep us safe from a war in space isn't the horror of explosives in orbit, but a question of cost and convenience.

6. **No ‘space war’ – Insurmountable barriers and everyone has an interest in keeping space peaceful**

**Dobos 19** [(Bohumil Doboš, scholar at the Institute of Political Studies, Faculty of Social Sciences, Charles University in Prague, Czech Republic, and a coordinator of the Geopolitical Studies Research Centre) “Geopolitics of the Outer Space, Chapter 3: Outer Space as a Military-Diplomatic Field,” Pgs. 48-49] TDI

Despite the theorized potential for the achievement of the terrestrial dominance throughout the utilization of the ultimate high ground and the ease of destruction of space-based assets by the potential space weaponry, the utilization of space weapons is with current technology and no effective means to protect them far from fulfilling this potential (Steinberg 2012, p. 255). In current global international political and technological setting, the utility of space weapons is very limited, even if we accept that the ultimate high ground presents the potential to get a decisive tangible military advantage (which is unclear). This stands among the reasons for the lack of their utilization so far. Last but not the least, it must be pointed out that the states also develop passive defense systems designed to protect the satellites on orbit or critical capabilities they provide. These further decrease the utility of space weapons. These systems include larger maneuvering capacities, launching of decoys, preparation of spare satellites that are ready for launch in case of ASAT attack on its twin on orbit, or attempts to decrease the visibility of satellites using paint or materials less visible from radars (Moltz 2014, p. 31). Finally, we must look at the main obstacles of connection of the outer space and warfare. The first set of barriers is comprised of physical obstructions. As has been presented in the previous chapter, the outer space is very challenging domain to operate in. Environmental factors still present the largest threat to any space military capabilities if compared to any man-made threats (Rendleman 2013, p. 79). A following issue that hinders military operations in the outer space is the predictability of orbital movement. If the reconnaissance satellite's orbit is known, the terrestrial actor might attempt to hide some critical capabilities-an option that is countered by new surveillance techniques (spectrometers, etc.) (Norris 2010, p. 196)-but the hide-and-seek game is on. This same principle is, however, in place for any other space asset-any nation with basic tracking capabilities may quickly detect whether the military asset or weapon is located above its territory or on the other side of the planet and thus mitigate the possible strategic impact of space weapons not aiming at mass destruction. Another possibility is to attempt to destroy the weapon in orbit. Given the level of development for the ASAT technology, it seems that they will prevail over any possible weapon system for the time to come. Next issue, directly connected to the first one, is the utilization of weak physical protection of space objects that need to be as light as possible to reach the orbit and to be able to withstand harsh conditions of the domain. This means that their protection against ASAT weapons is very limited, and, whereas some avoidance techniques are being discussed, they are of limited use in case of ASAT attack. We can thus add to the issue of predictability also the issue of easy destructibility of space weapons and other military hardware (Dolman 2005, p. 40; Anantatmula 2013, p. 137; Steinberg 2012, p. 255). Even if the high ground was effectively achieved and other nations could not attack the space assets directly, there is still a need for communication with those assets from Earth. There are also ground facilities that support and control such weapons located on the surface. Electromagnetic communication with satellites might be jammed or hacked and the ground facilities infiltrated or destroyed thus rendering the possible space weapons useless (Klein 2006, p. 105; Rendleman 2013, p. 81). This issue might be overcome by the establishment of a base controlling these assets outside the Earth-on Moon or lunar orbit, at lunar L-points, etc.-but this perspective remains, for now, unrealistic. Furthermore, no contemporary actor will risk full space weaponization in the face of possible competition and the possibility of rendering the outer space useless. No actor is dominant enough to prevent others to challenge any possible attempts to dominate the domain by military means. To quote 2016 Stratfor analysis, "(a) war in space would be devastating to all, and preventing it, rather than finding ways to fight it, will likely remain the goal" (Larnrani 20 16). This stands true unless some space actor finds a utility in disrupting the arena for others.

#### 7. Edwards –

#### a) The evidence is in the context of thousands of nuclear arsenals – they haven’t read evidence that indicates such a large amount of nuclear weapons would be used – the most likely scenario is launch of a few nukes since most of our nukes aren’t ready to launch immediately anyways and lack of

#### B) Firestorms are an internal link to nuke winter, not an independent impact.

#### c) This isn’t impact specific uniqueness – just about Kim Jong Un and Trump which doesn’t apply to the current political climate

#### d) Fallout doesn’t apply because it might cause some damage but their card says it’s just in the US

#### **8. No credible scenario for extinction—outdated fringe science and well-meaning threat inflation**

Scouras 19 (James Scouras, Johns Hopkins University Applied Physics Laboratory, formerly served on the congressionally established Comission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack, “Nuclear War as a Global Catastrophic Risk”, Cambridge Core, 9-2-2019, available at https://www.cambridge.org/core/journals/journal-of-benefit-cost-analysis/article/nuclear-war-as-a-global-catastrophic-risk/EC726528F3A71ED5ED26307677960962, accessed 12-1-2019, HKR-cjh)

\*footnotes 2 and 4 included

It might be thought that we know enough about the risk of nuclear war to appropriately manage that risk. The consequences of unconstrained nuclear attacks, and the counterattacks that would occur until the major nuclear powers exhaust their arsenals, would far exceed any cataclysm humanity has suffered in all of recorded history. The likelihood of such a war must, therefore, be reduced as much as possible. But this rather simplistic logic raises many questions and does not withstand close scrutiny. Regarding consequences, does unconstrained nuclear war pose an existential risk to humanity? The consequences of existential risks are truly incalculable, including the lives not only of all human beings currently living but also of all those yet to come; involving not only Homo sapiens but all species that may descend from it. At the opposite end of the spectrum of consequences lies the domain of “limited” nuclear wars. Are these also properly considered global catastrophes? After all, while the only nuclear war that has ever occurred devastated Hiroshima and Nagasaki, it was also instrumental in bringing about the end of the Pacific War, thereby saving lives that would have been lost in the planned invasion of Japan. Indeed, some scholars similarly argue that many lives have been saved over the nearly threefourths of a century since the advent of nuclear weapons because those weapons have prevented the large conventional wars that otherwise would likely have occurred between the major powers. This is perhaps the most significant consequence of the attacks that devastated the two Japanese cities. Regarding likelihood, how do we know what the likelihood of nuclear war is and the degree to which our national policies affect that likelihood, for better or worse? How much confidence should we place in any assessment of likelihood? What levels of likelihood for the broad spectrum of possible consequences pose unacceptable levels of risk? Even a very low (nondecreasing) annual likelihood of the risk of nuclear war would result in near certainty of catastrophe over the course of enough years. Most fundamentally and counterintuitively, are we really sure we want to reduce the risk of nuclear war? The successful operation of deterrence, which has been credited – perhaps too generously – with preventing nuclear war during the Cold War and its aftermath, depends on the risk that any nuclear use might escalate to a nuclear holocaust. Many proposals for reducing risk focus on reducing nuclear weapon arsenals and, therefore, the possible consequences of the most extreme nuclear war. Yet, if we reduce the consequences of nuclear war, might we also inadvertently increase its likelihood? It’s not at all clear that would be a desirable trade-off. This is all to argue that the simplistic logic described above is inadequate, even dangerous. A more nuanced understanding of the risk of nuclear war is imperative. This paper thus attempts to establish a basis for more rigorously addressing the risk of nuclear war. Rather than trying to assess the risk, a daunting objective, its more modest goals include increasing the awareness of the complexities involved in addressing this topic and evaluating alternative measures proposed for managing nuclear risk. I begin with a clarification of why nuclear war is a global catastrophic risk but not an existential risk. Turning to the issue of risk assessment, I then present a variety of assessments by academics and statesmen of the likelihood component of the risk of nuclear war, followed by an overview of what we do and do not know about the consequences of nuclear war, emphasizing uncertainty in both factors. Then, I discuss the difficulties in determining the effects of risk mitigation policies, focusing on nuclear arms reduction. Finally, I address the question of whether nuclear weapons have indeed saved lives. I conclude with recommendations for national security policy and multidisciplinary research. 2 Why is nuclear war a global catastrophic risk? One needs to only view the pictures of Hiroshima and Nagasaki shown in figure 1 and imagine such devastation visited on thousands of cities across warring nations in both hemispheres to recognize that nuclear war is truly a global catastrophic risk. Moreover, many of today’s nuclear weapons are an order of magnitude more destructive than Little Boy and Fat Man, and there are many other significant consequences – prompt radiation, fallout, etc. – not visible in such photographs. Yet, it is also true that not all nuclear wars would be so catastrophic; some, perhaps involving electromagnetic pulse (EMP) attacks 2 Many mistakenly believe that the congressionally established Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack concluded that an EMP attack would, indeed, be catastrophic to electronic systems and consequently to people and societies that vitally depend on those systems. However, the conclusion of the commission, on whose staff I served, was only that such a catastrophe could, not would, result from an EMP attack. Its executive report states, for example, that “the damage level could be sufficient to be catastrophic to the Nation.” See www.empcommision.org for publicly available reports from the EMP Commission. See also Frankel et al., (2015).2 using only a few high-altitude detonations or demonstration strikes of various kinds, could result in few casualties. Others, such as a war between Israel and one of its potential future nuclear neighbors, might be regionally devastating but have limited global impact, at least if we limit our consideration to direct and immediate physical consequences. Nevertheless, smaller nuclear wars need to be included in any analysis of nuclear war as a global catastrophic risk because they increase the likelihood of larger nuclear wars. This is precisely why the nuclear taboo is so precious and crossing the nuclear threshold into uncharted territory is so dangerous (Schelling, 2005; see also Tannenwald, 2007). While it is clear that nuclear war is a global catastrophic risk, it is also clear that it is not an existential risk. Yet over the course of the nuclear age, a series of mechanisms have been proposed that, it has been erroneously argued, could lead to human extinction. The first concern3 arose among physicists on the Manhattan Project during a 1942 seminar at Berkeley some three years before the first test of an atomic weapon. Chaired by Robert Oppenheimer, it was attended by Edward Teller, Hans Bethe, Emil Konopinski, and other theoretical physicists (Rhodes, 1995). They considered the possibility that detonation of an atomic bomb could ignite a self-sustaining nitrogen fusion reaction that might propagate through earth’s atmosphere, thereby extinguishing all air-breathing life on earth. Konopinski, Cloyd Margin, and Teller eventually published the calculations that led to the conclusion that the nitrogen-nitrogen reaction was virtually impossible from atomic bomb explosions – calculations that had previously been used to justify going forward with Trinity, the first atomic bomb test (Konopinski et al., 1946). Of course, the Trinity test was conducted, as well as over 1000 subsequent atomic and thermonuclear tests, and we are fortunately still here. After the bomb was used, extinction fear focused on invisible and deadly fallout, unanticipated as a significant consequence of the bombings of Japan that would spread by global air currents to poison the entire planet. Public dread was reinforced by the depressing, but influential, 1957 novel On the Beach by Nevil Shute (1957) and the subsequent 1959 movie version (Kramer, 1959). The story describes survivors in Melbourne, Australia, one of a few remaining human outposts in the Southern Hemisphere, as fallout clouds approached to bring the final blow to humanity. In the 1970s, after fallout was better understood to be limited in space, time, and magnitude, depletion of the ozone layer, which would cause increased ultraviolet radiation to fry all humans who dared to venture outside, became the extinction mechanism of concern. Again, one popular book, The Fate of the Earth by Jonathan Schell (1982), which described the nuclear destruction of the ozone layer leaving the earth “a republic of insects and grass,” promoted this fear. Schell did at times try to cover all bases, however: “To say that human extinction is a certainty would, of course, be a misrepresentation – just as it would be a misrepresentation to say that extinction can be ruled out” (Schell, 1982). Finally, the current mechanism of concern for extinction is nuclear winter, the phenomenon by which dust and soot created primarily by the burning of cities would rise to the stratosphere and attenuate sunlight such that surface temperatures would decline dramatically, agriculture would fail, and humans and other animals would perish from famine. The public first learned of the possibility of nuclear winter in a Parade article by Sagan (1983), published a month or so before its scientific counterpart by Turco et al. (1983). While some nuclear disarmament advocates promote the idea that nuclear winter is an extinction threat, and the general public is probably confused to the extent it is not disinterested, few scientists seem to consider it an extinction threat. It is understandable that some of these extinction fears were created by ignorance or uncertainty and treated seriously by worst-case thinking, as seems appropriate for threats of extinction. But nuclear doom mongering also seems to be at play for some of these episodes. For some reason, portions of the public active in nuclear issues, as well as some scientists, appear to think that arguments for nuclear arms reductions or elimination will be more persuasive if nuclear war is believed to threaten extinction, rather than merely the horrific cataclysm that it would be in reality (Martin, 1982). 4 As summarized by Martin, “The idea that global nuclear war could kill most or all of the world’s population is critically examined and found to have little or no scientific basis.” Martin also critiques possible reasons for beliefs or professed beliefs about nuclear extinction, including exaggeration to stimulate action.4 To summarize, nuclear war is a global catastrophic risk. Such wars may cause billions of deaths and unfathomable suffering, as well set civilization back centuries. Smaller nuclear wars pose regional catastrophic risks and also national risks in that the continued functioning of, for example, the United States as a constitutional republic is highly dubious after even a relatively limited nuclear attack. But what nuclear war is not is an existential risk to the human race. There is simply no credible scenario in which humans do not survive to repopulate the earth.

### Advantage 2

#### Di Pippo card is a paid promotion for an organization he works for, and gets nowhere close saying equitable access is key – says the resources in space solve terrestrial problems through tech innovation in Europe, which doesn’t have anything to do with equal access

#### Disease impact comes from one line in Di Pippo that says space may be helpful for telehealth – no card says it definitely is, and no card actually says telehealth solves disease, which is illogical – this impact should start at 0

#### Food internal says monitoring crops is key to increasing yields, but the impact card is about droughts and natural disasters killing the crops, which monitoring couldn’t conceivably solve

#### 4. Food interstellar inequality doesn’t exist – no one is there rn so their arg is ridiculous

#### 5. No impact to biod

* Permian-Triassic extinction proves resiliency
* No data on tipping points
* Ecosystems never outright collapse
* 600 models prove no ecosystem collapse

Hance 18 [Jeremy Hance, wildlife blogger for the Guardian and a journalist with Mongabay focusing on forests, indigenous people, climate change and more. He is also the author of Life is Good: Conservation in an Age of Mass Extinction. Could biodiversity destruction lead to a global tipping point? Jan 16, 2018. https://www.theguardian.com/environment/radical-conservation/2018/jan/16/biodiversity-extinction-tipping-point-planetary-boundary]

Just over 250 million years ago, the planet suffered what may be described as its greatest holocaust: ninety-six percent of marine genera (plural of genus) and seventy percent of land vertebrate vanished for good. Even insects suffered a mass extinction – the only time before or since. Entire classes of animals – like trilobites – went out like a match in the wind.

But what’s arguably most fascinating about this event – known as the Permian-Triassic extinction or more poetically, the Great Dying – is the fact that anything survived at all. Life, it seems, is so ridiculously adaptable that not only did thousands of species make it through whatever killed off nearly everything (no one knows for certain though theories abound) but, somehow, after millions of years life even recovered and went on to write new tales.

Even as the Permian-Triassic extinction event shows the fragility of life, it also proves its resilience in the long-term. The lessons of such mass extinctions – five to date and arguably a sixth happening as I write – inform science today. Given that extinction levels are currently 1,000 (some even say 10,000) times the background rate, researchers have long worried about our current destruction of biodiversity – and what that may mean for our future Earth and ourselves.

In 2009, a group of researchers identified nine global boundaries for the planet that if passed could theoretically push the Earth into an uninhabitable state for our species. These global boundaries include climate change, freshwater use, ocean acidification and, yes, biodiversity loss (among others). The group has since updated the terminology surrounding biodiversity, now calling it “biosphere integrity,” but that hasn’t spared it from critique.

A paper last year in Trends in Ecology & Evolution scathingly attacked the idea of any global biodiversity boundary.

“It makes no sense that there exists a tipping point of biodiversity loss beyond which the Earth will collapse,” said co-author and ecologist, José Montoya, with Paul Sabatier Univeristy in France. “There is no rationale for this.”