## 1

#### Settler colonialism is the 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.

#### The aff is a misdirect for settler control – their advantage scenarios describe why one group of settlers is more destined to manage territory than another, silencing debate about colonization – turns case – they proliferate settler myths that are crucial tenets of capitalist ideology.

Lister, 18

[Majerle, Marxist Diné Scholar: "‘The Only Way to Save the Land is to Give It Back’: A Critique of Settler Conservationism," Red Nation, published 7-23-2018. https://therednation.org/the-only-way-to-save-the-land-is-to-give-it-back-a-critique-of-settler-conservationism/]//AD

The history of the US conservation movement is a history settler colonialism.Settler colonialism operates on certain myths so that it can reproduce itself. One of those myths is that Indigenous people of the U.S. were unproductive with the land therefore white settlers were entitled to the land. There are two main points in this myth, the capitalistic characteristic of productivity and the notion of white supremacy. When settlers came over, they deemed the land unproductive despite the complex use of the land by Indigenous people. Following this, they believed they were entitled to the land because they thought themselves superior to manage land and labor. This white supremacy ideology initiated the Indigenous genocide, Indigenous land dispossession, and the enslavement of the African people. Settler land management operates on this notion that indigenous people cannot management their lands themselves despite the romanticism of the “ecological” Indian. If Indigenous people cannot manage the land, who should be in charge? The discussion of control of stolen land shifts to a discussion of the public vs the private.Indigenous people are quick to recognize the land grabs by the Federal government, or any other government, as the continuation of colonial land accumulation. Yet on the other end, conservationists see it [is seen] as consolidating lands for the public. The conservationists rally around the term “Public lands” harkening to the spirit of Wood Guthrie’s, “This Land is Your Land.” This shifts the narrative away from Indigenous land claims and dispossession towards a discussion of the public good. Indigenous lands become the public’s land and “the public” — which excludes the original owners of the land — should be the ones who manage and control the land. Examples demonstrating the shift away from Indigenous land control are seen by corporations and non-profits, such as Sierra Club and Patagonia. [IMAGE OMITTED -- TEXT READS:] The President Stole Your Land In an illegal move, the president just reduced the size of Bears Ears and Grand Staircase Escalante National Monuments. This is the largest elimination of protected land in American history. [END OMMITTED IMAGE TEXT]The photo above was spread throughout social media and many individuals rallied behind it not fully recognizing the harm it does for indigenous people whose land the public claimed was theirs. Patagonia called it an illegal move because it was an affront to the settler public but the corporation would not recognized the determinate factor behind the foundation of the U.S., Indigenous land dispossession. Furthermore, Sierra Club posted an image of a white woman wearing a shirt that said “hands off our lands” intended to sell the shirt, and it included #PublicLands in the post. The irony behind a white person wearing a shirt is part of the settler context. These are small ways in which Indigenous land claims are threatened by the way conservation groups and pro-conservation businesses advance settler colonialism. Many conservationists can argue that Indigenous people are part of the public therefore it is inclusive. Due to mass genocide, Indigenous people are a small fraction of the settler public and it becomes apparent that indigenous people are rarely invited to the table let alone given much decision-making power — but that doesn’t make their concerns less important. Tribal consultation is usually unilateral or ignored when it comes to use of lands. It is obvious why the notion of public control is questionable from the standpoint of Indigenous people: they are a minority within the public. The oppression of Indigenous people, via land dispossession, will be not be hidden by putting the sticker “environmentalism” on it. Trump’s attack on Indigenous lands is a clear manifestation of settler colonialism; but conservationism’s shift towards public lands rather than returning Indigenous lands to Indigenous people is little more than theft. (Also, Trump, a violent racist and nationalist, has more in common with Teddy Roosevelt than most conservationists care to admit.) Conservation must be seen for what it is and how it operates in settler-colonialism. The land does not belong to “the public.” It is necessary that it be returned to the management and control of Indigenous people. The only way to “save” the land is to return it to its rightful caretakers — Indigenous people.

#### Cooperation assumes that space is a unique area that can transcend Earthly politics. This naïve assumption ignores the settler power dynamics that shape the process of cooperation.

Genovese 16

(Genovese, Taylor R. Doctoral student in the Human and Social Dimensions of Science and Technology (HSD) program at Arizona State University, where he is pursuing his interest in the social imaginaries of human futures on Earth and in outer space. 2016. “Fear and Loathing in Truth or Consequences: Neoliberalism, Colonialism and the Lineage of the Frontier at Spaceport America.” Space+Anthropology, JKS)

“This isn’t the government space age,” the tour guide continues. “This is the commercial space age. As a space corporation, you have two choices: cede the business and die...or innovate. There will be no more government hand-outs and that forces innovation.” I knew that I would be confronted with the neoliberal, capitalist mythos eventually; the NewSpace mantra of “pull yourself up by the spaceboot-straps.” However, what the tour guide said is not entirely true, considering the New Mexico General Fund Plus Special Appropriation is slated to give Spaceport America $2,262,000 in the 2017 budget. That means that 35% of the spaceport’s operating budget next year will be taxpayer money—“government hand-outs,” if you will. However, this is not a novel situation, corporate subsidies are an important tradition within the capitalist system. “Movement of people and goods is a natural progression,” preaches the tour guide. “The goal of humanity is to make the world a smaller place. Space travel can do that. For example, take what happened at Benghazi. Imagine we could deploy a SEAL team on rocket planes anywhere in the world within minutes!” I can barely take it. This is my first time visiting any NewSpace facility and—as an anthropologist—I want to remain a fly-on-the-wall for this initial visit. But the activist in me begins screaming and clawing its way up my throat. I was about to burst when a voice calls out from behind me. “OK, but wouldn’t it be great if we all worked together in space? Shouldn’t space be without a military application?” I breathe a sigh of relief as my activist personality begins to settle down. The tour guide begins with the double-speak that continues throughout the remainder of the tour. “That’s the good thing about space,” he says, floundering slightly at the tourist’s audacity to challenge corporate policy. “It transcends politics. The good thing about space is it’s a Trump- free zone. A Hillary-free zone.” Except that is obviously not true; and not just in the Foucauldian “everything is political” sense (i.e. that power dynamics exist in every facet of human interaction). Abu Dhabi’s Aabar Investments has a 37.8% stake in Virgin Galactic. SpaceX has put in unsolicited bids to launch American spy satellites. The metaphysical ideal of outer space may be a place beyond politics, but the reality in this “second space age” is that globalized capitalism—and all the politics that are inherently intertwined within it—are alive and well in the commercial space industry. The tour guide turns to the launching capabilities of the Boeing 747, especially as it pertains to Virgin Galactic’s LauncherOne program which hopes to strap a rocket to one of the wings of a 747, fly up to around 50,000 feet, and release the rocket to be launched the rest of the way to space. “Does anyone else see a problem with this photograph?” asks the tour guide—holding his iPad out for us to see— referencing the fact that there exists only one missile on one of the wings. “What about a 747 carrying missiles on both wings? What about bomb bay doors? There’s a lot of volume inside of a 747! It carried the Space Shuttle on its back, it seems like a waste to only carry a single missile.” He holds his hand flat and horizontal to us, as if his fingers are a 747 and then uses the index finger of his other hand to simulate spacecraft dropping from the belly of the aircraft—his palm. Almost a neoliberal haiku. I begin to feel sick. The tour guide continues with the double- speak. “But it’s not about spaceports. It’s not about spaceships. It’s about how can space better humanity?” We finally disembark the shuttle and head to the visitor exhibits inside of the terminal and hanger facility. A large mural—titled The Journey Upward—is adorned on one of the walls. This mural served as a summation of the NewSpace worldview and ideology. A natural, inescapable, linear progression toward human beings spreading into the cosmos: from dinosaurs (?) to Anglo-looking Paleo Indians to settler-colonists to space migration. This romanticized “lineage of the frontier” is tied to the capitalist dream—and mythology—of untold profits and constantly expanding markets. Of course, the capitalist mythology also likes to ignore the horrendous inequality and violence that tends to attach itself to the frontier mentality. When frontiers are seen as limitless, uninhabited and uncivilized, it encourages doctrines like slavery and Manifest Destiny. Yet NewSpace corporations seem to be overlooking the bigger picture and instead focus on the “glory of the frontier” as endless profit potential and romantic adventure.

#### The fearmongering of space debris is rooted in a militarized approach to the future that culminates in the full-spectrum dominance of the globe.

Reno, Associate Prof. Anthropology @ Binghamton, 20

(Joshua Ozias, PhD from the University of Michigan: “The Wrong Stuff”, chapter 4 of Military Waste: The Unexpected Consequences of Permanent War Readiness Univ of California Press, Feb 4, 2020 Pg. 127-130)DR 19

**Space debris** can be dangerous to orbiting vessels and, as such, it represents an ever-growing hazard to human uses of Earth space. But these objects are hard to track and easy to mistake for something else, even for people who spend all of their time looking up at the night sky. Like space exploration itself, this is a difficult problem to solve, so it is not surprising that **only the most powerful and prominent space agencies imagine they are capable of finding space debris**, let alone clearing it from orbital environments. A core dimension of that power and prominence, moreover, is about having military ambitions that extend beyond the surface of the planet. And, **from the very beginnings**, doing so has meant enrolling amateur or civilian scientists in DoD plans for outer-space. Historically, **solving space-related challenges has meant getting funds and resources from wealthy and powerful nations**. **With the growth of** a permanent war economy, **such expenditure** is very often **tied** **to** imagined or real military applications. Consequently, the history of space exploration has been and continues to be shaped by tensions and networks between **civilian and military** scientific objectives. But these seemingly opposed **groups** also align and become indistinguishable, especially insofar as they embrace a fascination with developing the latest technology and an unrelenting faith in its ability to solve all problems. This is also known as techno-solutionism. Evgeny Morozov (2013) developed this idea related to utopian appraisals of the internet. His account draws heavily on **Hannah Arendt’s** *On Violence* (1970), a book which openly criticizes **US administrations** that thought they could solve global problems through technically ingenuous forms of death and destruction. Broadly defined, techno-solutionism is faith that technical fixes can solve any problem…even when they are targeting a realm like **outer space**, one that is already saturated with the leftovers of generations of technological problem-solving. According to Gökçe Günel (2019, 129), any technical adjustment is not only about “functionality, effectiveness, or use, but rather the ways in which its materially and conceptually indeterminate existence mobilizes potential towards a technically adjusted future.” In this sense, **technical fixes for space debris are more about extending the possibility of future technical intervention in orbital environments**, rather than, for instance, **encouraging ethical reflection** on whether people should create debris at all. Space debris is not just any problem, it is **one that originated** **with** and threatens **space science** and, as such, shows the limits of technical solution-making in general. If it is problematic to see space debris as a technical glitch, as noise in an otherwise perfectly rendered human design, that is because such a view can **mislead us** into thinking that all it takes is a little more ingenuity, a bit more mastery, to solve the problem entirely. But, following Virilio (2007), every new technical innovation and improvement brings a new disaster, an unprecedented act of contamination. If **space debris represents inevitable traces** that human artifacts and projects leave behind in the space beyond Earth, then, whatever the future may hold, this problem is unavoidable. If people want to continue to escape their earthly confines, space debris will have to be reckoned with. Space debris is a possibility that haunts all uses of space *tout court*, rather than an incidental by-product of space exploration and travel. A focus on technical mastery links the cause of space debris with its proposed cure. As a counterpoint, I discuss how amateur astronomers and ham radio operators have engaged with space debris in a different manner and with altogether different goals. Specifically, they tend to look for ways to become attuned with and enliven debris that has been abandoned. Militarizing Civilian Science The possibility of a semiautonomous civilian space agency had defined space exploration from the start, but by the 1970s and ‘80s, funding had dropped precipitously from the heyday of the Apollo missions. By that time, NASA had come under widespread criticism as the country entered recession and other big programs (such as the CIA) and national initiatives (the War on poverty, Civil Rights Legislation, the Vietnam War) were attacked by political representatives and activists across the political spectrum. The prominent images that NASA members used to promote the organization during the 1960s was that of pragmatism, that space efforts would yield scientific benefits. This failed to improve the prestige of the organization within the government, until the Reagan era, when there was a resurgence of nationalist and romanticist rhetoric from earlier in NASA’s history. With the Reagan administration there was an effort, first, to block international efforts to ban weapons use in outer space and, second, to invest new symbolic importance and new financial resources in the militarization of space. Since that time, **solving space debris has become a common pursuit** of space agencies all over the world, both the more militarized and the more civilian among them. By the early 1980s, **satellites were central infrastructure**, particularly for the United States. The militarization of space had already occurred, in other words, and **without extravagant laser weapons**. Consequently, among the most central issues of the time was the testing and development of antisatellite weaponry (ASAT). The use of experimental ASAT has been partly responsible for reorienting international attention to space debris, since ASAT is a spectacular technology, the goal of which is to transform working satellites into unusable waste. Since satellites were so vulnerable to attack, and space treaties did not allow for the defense of particular regions of space as sovereign territory, satellites could be destroyed simply by sending “space mines” to collide with them. This constitutes one clear reason why DARPA and the Air Force are so intent on tracking space debris—they want to know whether satellites colliding with unidentified objects represent coincidental hazards or deliberate attacks. Being able to tell the difference between space debris and an actively launched space mine would be like knowing whether an ocean vessel sank because of an iceberg or a submarine. Even if one cannot capture space debris, being able to detect and identify it might be **necessary to predict or avoid war**. The ambiguities of witnessing discussed in the previous section, not knowing what one is seeing, therefore take on perilous consequences. While Reagan’s “Star Wars” and Trump’s “Space Force” have been heavily discussed and derided, other administrations have had similar designs. Perhaps most enduring has been the Clinton-era concept of *full-spectrum dominance*, first outlined in the United States Space Command “Vision for 2020” released in 1997. This relationship between outer space and defense and security has been so central to US policy that prominent advocates for science, notably Neil deGrasse Tyson, have authored reports suggesting that **NASA could be restored to its former glory by becoming more like DARPA**, that is, the militaristic organization it was partly created ***not to become***. In many ways the DoD’s Defense Advanced Research Projects Agency (**DARPA) is the epitome of techno-solutionist practice**. Though the term *defense* was only added to the acronym later (it was termed ARPA until 1972), **the agency was always closely linked to military interests and problem-solving**. In management studies, the concept of problems that are “DARPA-hard” has become widespread, with websites baiting visitors to see whether their company’s challenges would come close to qualifying. According to Leifer and Steinert (2011, 159), there are four criteria for the agency to consider something DARPA-hard: 1. Technically challenging (beyond current limits); 2. Actionable (proof of concept or prototype); 3. Multidisciplinary (complex); and 4. Far-reaching (advances on a grand scale, radical). At the turn of the century, **DARPA** clearly **determined that solving orbital space debris met these criteria**. Space debris fragments **exceeded the capabilities of the Air Force’s Space Surveillance Network** (SSN), it would take work with specialists from various fields, and the achievement of a solution would be legitimately global in impact. The only thing missing was proof of concept. Their first attempt at a solution was to work with MIT aeronautics labs to develop a specialized telescope to detect faint objects. In 2011, DARPA unveiled a massive new telescope, the Space Surveillance Telescope (SST), specially developed with MIT labs to identify space debris. In contrast with what DARPA spokespersons described as the “soda straw approach” of existing telescopes, the SST would allow wide-angle shots of the night sky, made possible by a much larger aperture and an advanced visual processing system. **In at least one report** provided to NBC, moreover, cleaning up space debris was linked directly with military objectives.

#### The notion of the “commons” has historically been weaponized to build a state-sanctioned trust in white humanity – extending that trust to the stars does not make it less white supremacist, and doing it in the name of “pragmatism” does not make it less colonialist.

Goldstein, 18

[Alyosha, Prof. American Studies @ UNewMexico, PhD @ NYU: “By Force of Expectation: Colonization, Public Lands, and the Property Relation,” published by UCLA Law Review on 3-1-2018. https://www.uclalawreview.org/by-force-of-expectation/]//AD

Over the course of the long nineteenth century, land policy was increasingly deployed as a means of encourages western settlement, while also being symptomatic of the tensions among federal administration, private speculators, and extra-legal settler encroachment.13 As is often noted in scholarship on the public domain—but infrequently emphasized in discussions of the United States more generally—almost one-third of all land in the United States is administered by the federal government. This land is disproportionately concentrated in the western states, with federal acreage totaling nearly 80 percent of Nevada, 63 percent of Utah, and 53 percent of Oregon.14 Considered a revenue source for federal war debt during the early national era, public land policy operated initially to survey, secure, and dispose collateral in the service of national solvency in accordance with the Land Ordinance of 1785.15 Enormous giveaways and preferential lease arrangements for railroad corporations and extractive industries accompanied the aftermath of the Civil War. The Taylor Grazing Act of 1934 inaugurated a new era in federal management of public lands by instituting grazing fees for use of the public domain and effectively ending homesteading.16 In 1976, the Federal Land Policy and Management Act mandated multiple-use standards—including environmental protections aligned with the 1969 National Environmental Policy Act—that continue to govern Bureau of Land Management oversight.17 It was in the context of increased federal management and conservationist legislation that ranchers such as the Bundys increasingly cast themselves as victims of government overreach, as the true embodiment of the American people oppressed by governmental tyranny. Moreover, as has been the case in other settler uprisings in the west, the Bundys displayed no interest whatsoever in the actual and still-present Native peoples whose land they occupied as anything other than a historical metaphor for contemporary white injury. As Ryan Bundy remarked during the 2016 occupation of the Malheur National Wildlife Refuge in Oregon, the militia “recognize that the Native Americans had the claim to the land . . . but they lost that claim. . . . There are things to learn from cultures of the past, but the current culture is the most important.”18 In fact, a variety of claims to land are made in the name of “the public” and “the people” as a collective interest in opposition to the federal government, the extractive industries, or the supposedly special interests of Native American tribes.19 Here, generalized claims to representing “the public” and “the people” obscure the particular and often antagonistic positions that galvanize such claims, as well as casts tribes as a single interest group that fraudulently make claims in the name of sovereignty and treaty rights. The spectrum of debate on public lands today tends to naturalize the white nationalism espoused by the Bundys—even when ostensibly criticizing the occupations as extremist or without merit—by recourse to conceptions of the national public and natural resources as national commons.20 The notion of the commons itself is a logic of apparent universal access and public good that is used to justify indigenous dispossession, depicting the particular and historical belonging of Native peoples as an overly self-interested obstacle to the greater good of the commons.At the same time, recourse to an exceptionalist discourse that casts public lands as “the common birthright of all Americans” has become a frequent rejoinder to either plans for the large-scale transfer of federal lands to states and private industry. For instance, Utah Congressman Jason Chaffetz’s proposed Disposal of Excess Federal Lands Act in January 2017 was abruptly withdrawn after criticism from groups such as Backcountry Hunters and Anglers proclaimed: “It seems the politicians on Capitol Hill have forgotten to whom the land actually belongs. You, me and every other citizen of this country.”21 The substance of the bill echoed both Utah’s 2012 Transfer of Public Lands Act (which demanded that the U.S. Congress convey federal public lands to the state) and the 2016 Republican Party campaign platform (which likewise called for the devolution of public lands to states), even as it remained out of step with public statements by Donald Trump and Montana representative Ryan Zinke, then Trump’s likely nominee on his way to becoming the Secretary of the Interior, who sought to maintain federal control while increasing deregulation to allow for expanded access for private industry.22 Yet both proponents of the populist “to whom the land actually belongs” and legislators espouse a defensive nationalism and incontrovertible possession contingent upon the presumed comprehensive dispossession of indigenous peoples.The pattern of settler trespass and land claims over and against indigenous peoples in excess of imperial or state sanction led to the British colonial government’s Proclamation of 1763. Although the proclamation ultimately served as a justification for the U.S. War of Independence because of its supposedly unjust limitation on territorial expansion by the colonies, it also provided a model for the subsequent U.S. federal government’s authority over constituent states and settlers.23 During the early national period when the federal government administered public lands primarily as a source of revenue, legal and military action sought to curb and control widespread settler trespass and unlawful habitation. In the wake of the Louisiana Purchase, Congress authorized the army to forcibly eject squatters. The 1807 Unlawful Intrusions Act increased criminal sanctions and penalties for settling or occupying public lands without legal claim, but ultimately did little to limit the expectations and incursions of settlers west of the Mississippi River. These expectations and settler claims were first given legal endorsement following the War of 1812 when Congress conferred partial preemption rights to squatters in Louisiana and the Illinois and Missouri Territories. The right of preemption—the preferential right granted to squatters to purchase the lands they occupied prior to public sale at a minimum price per acre—essentially authorized settler illegality and theft as a means of further consolidating colonization. Legislative debates over the regulation of settler trespass intensified throughout the 1820s, eventually resulting in a series of expansive preemption acts between 1830 and 1841.24 In 1862, Congress passed the first of the Homestead Acts, which gave federal land to settlers for farming as a means to encourage westward migration over and against the sovereign territorial claims of indigenous peoples. It similarly encouraged the western settlement of European immigrants as a palliative means of economic mobility intended to defuse full blown class war among the settler population in the east.25 At the same time, the lackluster and minimally implemented Southern Homestead Act of 1866—intended to support landownership by formerly enslaved African Americans—makes clear the unevenly racialized and white nationalist terms of settlement.26 II. The White Republic of Cliven Bundy The historical imaginary expressed in the Bundy occupations is predicated on claiming to defend the true legacy of the American Revolution, the principles of the U.S. Constitution, and the heritage of conquest in the U.S. West. The “Sagebrush Rebellion” of the 1970s restaged the possessive expectations of settlers and western ranchers manifest in reaction to Progressive-era conservationist legislation during the 1890s, including the Forest Reserve Act of 1891 and the Forest Service Organic Administration Act of 1897, which allowed the federal agency to designate areas to be reserved and protected from development. Statements by the Bundys on the illegitimacy of federal authority deliberately align them with this reactionary moment, as well as with historical lineage of white supremacist Posse Comitatus during the 1970s and 1980s, the militia and “county supremacist” movements of the 1990s, and the more recent “sovereign citizen” movement. Distinct in many ways, each of these movements nonetheless claimed to defend private property against federal tyranny.27 For the Bundys and other Western ranchers, these three themes—the American Revolution, the U.S. Constitution, and the so-called frontier—converge most saliently on the issue of land held in the public domain.28 Ignoring not only the ongoing and genocidal history of indigenous displacement, but also the historical consolidation of cattle baron monopolies through their brutal reign of terror and class war against impoverished homesteaders, the Bundy narrative highlights claims of rancher oppression and dispossession. Similar claims were reignited in opposition to the environmental movement in the 1960s and 1970s and legislation such as the National Environmental Policy Act of 1969, which encouraged federal agencies such as the Bureau of Land Management and the National Forest Service to manage natural resources for purposes other than grazing, mining, and logging.29 The county supremacy, wise use, and white nationalist movements share the idea that the U.S. Constitution does not allow federal ownership of public lands within the borders of a state.30 They argue that federal lands should have been relinquished to the states upon their admission to the Union under the so-called “equal footing doctrine.” Originating with the state land cessions negotiated on behalf of the Articles of Confederation as a means of securing the political unification of the states, and further articulated in the expansionist terms of the 1787 Northwest Ordinance, the equal footing doctrine requires that new states be admitted to the Union as political equals of the existing states. Although all of the continental western states had clauses in their admissions acts disclaiming any right to unappropriated public lands within their borders, these groups contend that such clauses are unconstitutional under the equal footing doctrine, and therefore invalid.31 As empirically spurious as such assertions are, they link claims to public land, such as those made by the Bundys, to state’s rights agendas and the terms of continental colonization negotiated among settlers, states, and the federal government. In April 2014, Cliven Bundy’s confrontation with the Bureau of Land Management in the aptly named Bunkerville, Nevada—an unincorporated town founded by Mormons in 1877 and 82 miles northeast of Las Vegas—gained widespread news coverage. Since 1989, Bundy had accumulated more than $1.2 million in unpaid grazing fees for use of public lands. When in 2014, as a response to Bundy’s refusal to pay these fees, the BLM began confiscating Bundy’s cattle, he issued a call to militia across the country to come to his ranch and take up arms against the federal government.32 Although the Bundy family only purchased their ranch land in 1948 and did not begin grazing cattle until 1954, Bundy insisted on his ancestral and preemption-derived rights: “My forefathers . . . have been up and down the Virgin Valley here since 1877. All these rights I claim have been created through pre-emptive rights and beneficial use of the forage and the water and the access and range improvements.”33 At no point has Bundy substantively addressed the Moapa Band of Paiutes, whose homeland was appropriated as the public domain to which he claimed to have rights by virtue of ancestry, preemption, and American citizenship. Nor did Bundy’s advocates make the comparison between the federal government’s treatment of the Nevada rancher and its considerably more severe, violent, and illegal actions toward the nearby Western Shoshone and the Dann sisters.34 Although Bundy had little to say regarding the Southern Paiute he did have thoughts to share on the place of African Americans in the United States. “I want to tell you one . . . thing I know about the Negro,” he said. Referring to a public-housing project in North Las Vegas, he decried “government subsidy” as leading to immoral abortion and crime. He concluded with a nostalgic gloss on slavery by remarking that he’d “often wondered, are they better off as slaves, picking cotton and having a family life and doing things, or are they better off under government subsidy?”35 Indeed, he contended that African Americans taking government assistance were less free than slaves. Las Vegas as a site of escalating racialized struggle over housing and displacement was of little concern for Bundy. Likewise, his criticism of federal land policy omitted any mention of how the 1998 Southern Nevada Land Management Act opened up federal lands for rapid development, and paved the way for the real estate boom in the Las Vegas Valley. During the 1990s, Nevada had the fastest growing population in the country and was subsequently among the state’s most impacted by the 2008 foreclosure crisis.36 Especially relevant for the frame of expectation as property, Cliven Bundy’s racial imaginary and racialization of the state articulate familiar reactionary tropes in response to the gains of the civil rights movement and grudging expansion of the semi-welfare state during the 1960s. These have historically accompanied the assertion of states’ rights and the burgeoning white hostility to federal authority—manifest in struggles such as those against taxation and school integration—and advanced the further devolution and downsizing of government. Likewise, the reactionary 1970s “taxpayer revolt” and successive antiwelfare campaigns disputed what they characterized as the inordinate tax burden placed on them by the state.37 More recently the link between states’ rights claims and efforts to dismantle civil rights legislation such as the Voting Rights Act has been evident in such conservative jurisprudence as the U.S. Supreme Court’s 2013 decision in Shelby County v. Holder.38 Acknowledging the ways in such hostility to federal authority is articulated in terms of declarations of patriotism and claims to represent fundamental constitutionally based American values suggests the importance of understanding how antiwelfare discourse evokes American exceptionalist conceptions of the nation. Underwritten by Lockean notions of property and proper possession, as well as the “doctrine of discovery,” the settler construct of the independent and rugged individualist pioneer that has long served as foundational to the mythology of white nationalism remains predicated upon not only indigenous dispossession and its disavowal, but on the attributions of dependency and devaluation to racialized others more broadly. This is where the white republic of Cliven Bundy is an aspiration to a racially specific national belonging that evokes its own vision of common inheritance and birthright. Bundy’s white republic is at once exclusive, possessory, and an expansive claim to be and to defend America that denies its own dependence on lands and labor taken by attributing reprehensible dependency to those who have been dispossessed and racialized as socially expendable. III. A Certain Public The case of Gold Butte is useful to briefly consider in this regard. Gold Butte is land formation with numerous petroglyphs, historical artifacts, and sacred sites that is part of the traditional territory of the Moapa Band of Paiutes to the south of Bunkerville and on which Bundy had been grazing his cattle.39 In the wake of Mormon-led colonization efforts in the region that began during the mid-nineteenth century and through which settlers seized the most arable Southern Paiute land, the federal government established the Moapa River Indian Reservation in 1873. Initially 2.5 million acres—including much of present-day Moapa, Logandale, Overton, Virgin Valley, and the Gold Butte area—the reservation was reduced to a mere 1,000 acres two years later to make way for mining industry interests. A claim filed with the Indian Claims Commission by the Moapa Paiute in 1951 provided limited compensation for lands taken and legislation in 1980 returned 70,000 acres to the tribe.40 Legislation introduced in 2014 that would have further reinstated land to the tribe failed in committee, but provoked criticism from various settler factions. Real estate developers in the area complained that this would be a “negative economic legacy to the state of Nevada in perpetuity,” and a spokesperson for the organization Partners in Conservation expressed concerns about lack access for non-tribal members and “families that have traditional, historic, and cultural ties to that area . . . . We have lost a lot in the past years with all the various restrictions on federal lands.”41 In addition to such acquisitive hostilities, the Moapa and the Las Vegas Paiute have also fought against the toxic consequences of military test sites and extractive energy projects throughout the region, such as the Yucca Mountain Repository for nuclear waste and the Reid Gardner coal plant.42 Facing resistance to regaining stolen lands, the Moapa worked with the environmentalist group Friends of Gold Butte and Sierra Club, and successfully lobbied outgoing President Obama to establish the Gold Butte National Monument. Former tribal council member Vernon Lee observed: “We want to protect the lands, we want to protect the animals and we want our sacred sites protected . . . . Right now, the best thing we can think of is to go on the side of this creation of a monument.”43 This protection required the Moapa to strategically partner with environmentalists so as to advocate on behalf of the public interest and lobby for a national monument to be established under the Antiquities Act for a nation other than itself and antiquities that would symbolically be conserved as an inheritance for the people of the United States generally. This general public is always already a particular settler public—itself composed of specific antagonisms and divisions—that strives to secure national certainty and capacity through indigenous dispossession.It is instructive to compare Lee’s statement with Nevada Senator Harry Reid, who championed the initiative to set aside Gold Butte as a national monument. Reid declared: “Threats to our public lands are threats to our economy, our environment, and our culture. When we preserve our lands, we preserve America.”44 The force of colonial dispossession and disavowal as settler common sense obscures the gap between the strategic pragmatism of “right now, the best thing we can think of” espoused by Lee—a pragmatism I take to be ultimately in the service of tribal sovereignty—and the national purpose invoked by Reid, that “we preserve America.” Where Lee speaks to the limited options for asserting Moapa relations to place and Moapa authority in relation to lands taken under colonization, Reid’s remarks suggest the ways in which the past and futurity of the United States are at stake in preserving a uniquely American heritage and landscape. To ignore the racial and colonial constitution of the property relation threatens not only to perpetuate, but also to intensify the ways in which property itself as a historical and material relation is predicated upon racial and colonial dispossession. Nor, is it possible to simply substitute a supposedly colorblind ethic—such as ending de jure racist property exclusions or redlining in real estate markets—that renders the property relation more equitable. Colonization and the differential devaluation of racialized peoples remain constitutive. This is not to say that property is exclusively a manifestation of these historical relations of power, but it is to suggest that it remains in significant ways enmeshed with and disposed by these relations. In prevailing conceptions of possession and property, as Eva Mackey points out, “jurisprudence has legally entrenched and attempted to materialize the fantasy of certainty and stability for settlers”—precisely the certainty and stability upon which expectation depends.45 Taking seriously the notion that property is a social relation requires looking at the specificity of that relation as it is continuously remade in the broader social circumstances in which it is situated and social struggles of which it is part. This perpetual need for its remaking and reiteration, in effect, conveys in part how the property relation as a colonial relation remains uncertain, unstable, and open to contestation. The genealogy of white supremacy in the United States is made in shifting material relations of colonial and racial dispossession. Both white supremacy and what Mark Rifkin calls “settler common sense” are used to mediate inequalities among white people over and against indigenous peoples, people of color, and migrants.46 The Bundy claims provide an example of these ideologies, which assert a particular conception of collective belonging and nationalist imaginary. This is a settler nation that gains a semblance of coherence over and against indigenous and racialized others. To challenge this claim by asserting a more inclusive national public and the celebration of national commons may provide a seemingly effective counter-discourse, but it does so only by further inscribing settler prerogative and naturalizing colonial and racialized dispossession. Putatively antigovernment white supremacy in the United States conjoins colonial and racial dispossession in its attacks on the U.S. state. Rather than simply being anti-statist, such maneuvers are attempts to capture and redeploy state power in particular ways, while at the same time categorically denying the historical co-constitution of colonial and racial dispossession and how this remains crucial in the current conjuncture. These are the ideational and material sources of expectation as property.

#### This debate is not private space good/bad, but instead a question of Native sovereignty and the power to invoke the plan. The 1AC eclipses the authority of Native nations, so in response we affirm the long tradition of Indigenous internationalism across colonial borders.

Estes 19

(Nick Estes is a citizen of the Lower Brule Sioux Tribe. He is an Assistant Professor in the American Studies Department at the University of New Mexico. In 2014, he co-founded The Red Nation, an Indigenous resistance organization. For 2017-2018, Estes was the American Democracy Fellow at the Charles Warren Center for Studies in American History at Harvard University. Chapter 6: Internationalism, Our History Is the Future: STANDING ROCK VERSUS THE DAKOTA ACCESS PIPELINE, AND THE LONG TRADITION OF INDIGENOUS RESISTANCE, 2019, hardback, JKS)

The Treaty Council, however, was not the first or only version of what historian Daniel Cobb calls a “global Indigenous identity.” Rather, it belonged to and drew from a long tradition of Indigenous internationalism.5 Prior to European contact, Indigenous nations had often entered into relations with each other for alliance, kinship, war, peace, or trade. As shown in previous chapters, agreements were made not solely between human nations, but also among nonhuman nations as well, such as the buffalo and the land. Such treaties were, and continue to be, the basis of diplomacy and the evidence of a prior and continuing status of Indigenous nationhood. Sovereign nations do not enter into international relations or treaties with domestic or “internal” populations. On the contrary, the very basis of sovereignty is the power to negotiate relationships between those who are seen as different— between other sovereigns and nations. But concepts of “sovereignty” and “nation” possess different meanings for Indigenous peoples than for their European-derived counterparts. And they are not entirely consistent, either, with the aspirations for a nation-state that came to define decolonization movements in the Third World. While doing important defensive work, on face value these Western and Third World concepts only partially reflect traditions of Indigenous resistance. Far beyond the project of seeking equality within the colonial state, the tradition of radical Indigenous internationalism imagined a world altogether free of colonial hierarchies of race, class, and nation. This vision allowed revolutionary Indigenous organizations such as the Treaty Council to make relatives, so to speak, with those they saw as different, imagining themselves as part of Third World struggles and ideologies, and entirely renouncing the imperialism and exceptionalism of the First World (while still living in it). They were in the First World but not of it—much like American Indians are in, but not entirely of, the United States. Indigenous peoples across North America and the world have fought, died, and struggled to reclaim, restore, and redefine these powerful ideas. Their goal has been to take their proper place in the family of nations. Radical Indigenous internationalism, however, predates AIM and the Treaty Council. Contemporary pan-Indigenous movements were a result of more than a decade of Red Power organizing that began in the early 1960s, nearly a decade before the creation of AIM. Earlier, in the 1950s, Flathead scholar and writer D’Arcy McNickle and the National Congress of American Indians had explored a similar intellectual and political terrain of internationalism. And before that, the Society of American Indians advocated for a seat at the table during the 1919 Paris peace talks and representation at the League of Nations. Each distinct instance posed a similar question: If Indigenous peoples are nations, why are they not afforded the right to self-determination? Two strands of thinking about self-determination for the colonial world prevailed following the First World War. In the first, US President Woodrow Wilson argued for self-determination with a limited set of rights that would not radically upset the colonial order. Such liberal internationalism, however, glaringly omitted Indigenous peoples, as they understood themselves as nations that existed prior to the formation of settler states. Rarely were Wilson’s principles applied to North America or the United States; nor were they ever intended to extend to Indigenous peoples. A second, more radical vision put forward by Communist revolutionary V. I. Lenin argued for the right of colonized nations to secede and declare independence from their colonial masters. This view was echoed by the Third World decolonization movement, as part of a global Socialist and Communist revolution, and it has frequently been applied in the Asian, African, and South American contexts. But this view remained almost entirely absent in North America, except among radical Indigenous, Black, Asian, Caribbean, and Chicanx national liberation movements. The Treaty Council advocated Indigenous nationhood as part of this global anti-colonial movement and in line with Third World liberation movements. After decades of experiencing land loss, enduring bare survival, attempting to work with federal programs, filing court cases, defeating termination legislation, and facing mass relocation, an assertion of Oceti Sakowin sovereignty went from ambition to prescription. Few avenues remained other than the pursuit of international treaty rights. Treaties made with the United States were proof of nationhood. But what legal institution would uphold this position if the United States refused to? If the goal was to reverse the unjust occupation of an entire continent, the advancement of Indigenous rights through the very legal and political systems that justified that occupation in the first place had proven limited in some instances, and hopeless in others. To survive, AIM and the Treaty Council therefore had to look elsewhere to make their case—beyond the confines of the most powerful political construct in world history, the nation-state. Prior to and during colonization, Indigenous nations had self-organized into deliberate confederacies, alliances, and governments. The Nation of the Seven Council Fires (the Oceti Sakowin), for instance, is a confederacy of seven different nations of Lakota-, Dakota-, and Nakota-speaking peoples in the Northern Plains and Western Great Lakes. They are hardly unique; in North America alone there are the Creek Confederacy in the Southeast, the Haudenosaunee Confederacy of Six Nations in the Northeast, the Council of Three Fires (made up of Ojibwes, Odawas, and Potawatomis) in the Great Lakes region, the United Indian Nations in the Ohio River valley (under the Shawnee leadership of Tecumseh), the All Indian Pueblo Council of the Southwest, and the Iron Confederacy of the Northern Plains. Many other political confederacies also flourished prior to, alongside, and in spite of settler states in North America. And their legacies are hardly relegated to the primordial past. Modern Oceti Sakowin internationalism, for instance, traces its origins to the early twentieth century, an era generally viewed as a low point for Indigenous activism and resistance. In North America alone, an estimated precolonial population of tens of millions of Indigenous peoples had been reduced to about 300,000, and for Flathead historian D’Arcy McNickle, writing in 1949, two processes contributed greatly to this decimation: the institution of private property and the destruction of Indigenous governance that once held land in common. Indigenous nations at the time also possessed little in the way of either collective property or political power, as Indigenous territory had been drastically diminished, and the reservation system had overthrown or almost entirely dissolved customary governments. If Indigenous peoples once constituted the tree of the Americas, whose roots deeply entwined in the land, the cultivation of “growth from the severed stump,” McNickle argued, was the pivotal challenge of the twentieth century.7 Physical extermination and the repression of Indigenous political power verified the United States’ genocidal intent, but these had not accomplished their purpose. And despite otherwise stating pluralistic claims to inclusion, McNickle concluded that the United States simply “can not tolerate a nation within a nation.” If Natives were to be assimilated, they would be assimilated as individuals and not as nations. In the popular imaginary, Natives disappeared into the wilderness of history, were never truly nations, and had been overpowered by a superior civilization. If they were nations, they were eclipsed and replaced by the real nation—the United States. Such erasure notwithstanding, vibrant Indigenous political traditions persisted. But to the untrained eye, nothing was awry. From the severed stump began to regrow the tree of life—the tree of resistance that would blossom into revolt decades later.

#### The process and agents of political change matter. Indigenous internationalism must be asserted through Native sovereignty and organizing. We preempt the perm and the plan- they still collude with settlerism, which trades off with meaningful resistance.

Simpson 16

(Leanne Betasamosake Simpson, renowned Michi Saagiig Nishnaabeg scholar. She holds a PhD from the University of Manitoba, and teaches at the Dechinta Centre for Research & Learning in Denendeh. An Interview with Eve Tuck (Unangax̂), Indigenous Resurgence and Co-resistance, Critical Ethnic Studies, Vol. 2, No. 2 (Fall 2016), pp. 19-34, JKS)

PLACE-BASED INTERNATIONALISM

Eve: One idea that Wayne and I floated in our call for papers is that how a person or community understands the roots or source of injustice will have implications for how they go about undoing that injustice. Does this make sense to you? Might it be too simplistic or problematic?

Leanne: I think we need to be a bit careful here, particularly in the academy. I think Indigenous peoples understand pretty well injustice in their own lives whether or not they can articulate it using the language of colonialism or decolonization. I think movements that link social realities with political systems and focus on creating real-world-on-the-ground alternatives are powerful. I worry that too much of our energy goes into trying to influence the system rather than creating the alternatives. It matters to me how change is achieved. Change achieved through struggle, organizing, and creating the alternatives produces profoundly different outcomes than change achieved through recognition-focused protest, and pressuring the state to make the changes for us. That is a recipe for co-option. I think it is important to understand root causes of injustice, but it is also important to understand think strategically and intelligently about approaches to undoing that injustice. I think that diagnosis and strategic action must be done within grounded normativity. Indigenous thought has a tradition of place-based internationalism that I think is this beautifully fertile spot because it links place-based thinking and struggle with the same decolonial pockets of thinking throughout the world. Nishnaa- beg have been linking ourselves to the rest of the world since the beginning of time, and throughout our resistance to colonialism we have our people traveling throughout the world to link with other communities of resistors. Grassy Narrows First Nation comes to mind in their nearly four- decade fight against mercury poisoning in their river system and the relationship they have made with the Japanese community in Mnimata.6 We need to use our experiences in the past to think critically about how we respond to injustice today. Right now, Indigenous peoples in Canada need to be thinking critically about the implications of seeking recogni- tion within the colonial state because we have a government that is very good at neoliberalism and seducing our hope for their purposes. Again, Glen Sean Coulthard, in Red Skin, White Masks, using the Dene nation’s experience in the 1970s, provides a blistering critique of the pitfalls of seeking political recognition within state structures. He makes the point that continually seeking recognition with the settler-colonial state is a process of co-option and neutralization, and is a way of bringing Indigenous peoples into the systems that guts our resistance movements, for instance, and we get very little in return.7 In fact, in terms of dispossession—that is, the removal, murdering, displacement, and destruction of the relation- ship between Indigenous bodies and Indigenous land—this serves only to facilitate land loss, not improve things. Engagement with the system changes Indigenous peoples more than it changes the system. This can be destructive in terms of resurgence because resurgent movements are trying to do the opposite—we are trying to center Indigenous practices and thoughts in our lives as everyday acts of resistance, and grow those actions and processes into a mass mobilization. I think it is useful to apply this same critique of recognition to orga- nizing and mobilizing with the purpose of making a switch from mobi- lizing around victim-based narratives—that is, publically demonstrating the pain of loss as a mechanism to appeal to the moral and ethical fabric of Canadian society (which has over and over again proven to be morally bankrupt when it comes to Indigenous peoples)—to using that same pain and anger to fuel resurgent actions. This organizing from within grounded normativity has always fueled Indigenous resistance and continues to happen all the time in Indigenous communities—it is just often misread by others. The community of Hollow Water First Nation created the Community Holistic Circle of Healing as a Nishnaabeg restoration of relationships, or a restorative justice model to address sexual violence in their community.8 Christi Belcourt’s Walking with Our Sisters exhibit has created a traveling display of 1,800 moccasin vamps as a way of honoring and commemorating missing and murdered Indigenous women and children in Canada and the United States. The exhibit does not rely on state funding.9 Thousands of volunteers made the vamps. The exhibit works with local communities and their cultural and spiritual practices to install the exhibit and do the necessary ceremony and community processes. Walking with Our Sisters works with local organizers a year in advance of installation, using Indigenous processes to embed the art in community on the terms of the local community. There is also the work of countless urban Indigenous organizations supporting the families of MMIWG2S people. The Native Youth Sexual Health Network provides on-the-ground, community-embedded, peer-to-peer support around sex- ual health and addiction for youth.10 The Akwesasne Freedom School provides Mohawk education for Mohawk children.11 The Iroquois national and Haudenosaunee women’s lacrosse teams travel using Haudenosau- nee passports instead of American or Canadian ones.12 The Unist’ot’en Camp pursues land protection resurgent action and the reclamation of the original name of Mount Douglas, PKOLS, in the city of Victoria, British Columbia.13

**Interpretation: The 1AC is an object of research. The role of the neg should be to disprove the various meanings of that object.**

**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 the topic which is a unique education net benefit to our interpretation**

**2] Debate doesn't pass policies but it does alter the way we think about the world and about systems of power – turns their policy research standards because it's a question of how their research is oriented and whether it's for an ethical purpose – only our model of engagement accesses that education**

**3] Begs the question – if we win their justifications are repugnant that necessarily implicates the conclusion which means defense of their research model is a prior question to weighing the material consequences of the aff – also solves plan focus because the links necessarily implicate aff solvency**

## Case

### TL

#### Evaluate ONLY the parts of cap and inequality the aff can solve – I’ll give you a hint: its next to nothing. Do not give them all of the generic cap or inequality impacts they read in the 1AC.

#### Vote neg on presumption – space privatization may be an example of neolib, but no chance that they solve it:

#### None of their ev is reverse causal – industrial agriculture, the defense industrial base, Amazon, Koch Industries are all examples of capitalism – plus capitalism predates space exploration, which proves they don’t control the root cause

#### 1AC Werlhof is a critique of growth mindset writ large – if governments are fundamentally neoliberal, they have the same incentives to appropriate space as private companies – the aff has zero bearing on NASA – means they don’t solve spatial fixes because NASA can appropriate space resources, then sell them to private companies – proven by existing contracts between NASA and NewSpace –

#### No brightline – corporations will continue extracting resources from Earth even if it’s less lucrative

### Adv 1

#### 1. Kessler syndrome is media hype – no risk

Von Fange 17

Daniel von Fange (systems engineer. Fond of charts), 5-21-2017, "Kessler Syndrome is Over Hyped," braino, http://braino.org/essays/kessler\_syndrome\_is\_over\_hyped/, // HW AW

Kessler Syndrome is overhyped. A chorus of online commenters greet any news of upcoming low earth orbit satellites with worry that humanity will to lose access to space. I now think they are wrong. What is Kessler Syndrome? Here’s the popular view on Kessler Syndrome. Every once in a while, a piece of junk in space hits a satellite. This single impact destroys the satellite, and breaks off several thousand additional pieces. These new pieces now fly around space looking for other satellites to hit, and so exponentially multiply themselves over time, like a nuclear reaction, until a sphere of man-made debris surrounds the earth, and humanity no longer has access to space nor the benefits of satellites. It is a dark picture. Is Kessler Syndrome likely to happen? I had to stop everything and spend an afternoon doing back-of-the-napkin math to know how big the threat is. To estimate, we need to know where the stuff in space is, how much mass is there, and how long it would take to deorbit. The orbital area around earth can be broken down into four regions. Low LEO - Up to about 400km. Things that orbit here burn up in the earth’s atmosphere quickly - between a few months to two years. The space station operates at the high end of this range. It loses about a kilometer of altitude a month and if not pushed higher every few months, would soon burn up. For all practical purposes, Low LEO doesn’t matter for Kessler Syndrome. If Low LEO was ever full of space junk, we’d just wait a year and a half, and the problem would be over. High LEO - 400km to 2000km. This where most heavy satellites and most space junk orbits. The air is thin enough here that satellites only go down slowly, and they have a much farther distance to fall. It can take 50 years for stuff here to get down. This is where Kessler Syndrome could be an issue. Mid Orbit - GPS satellites and other navigation satellites travel here in lonely, long lives. The volume of space is so huge, and the number of satellites so few, that we don’t need to worry about Kessler here. GEO - If you put a satellite far enough out from earth, the speed that the satellite travels around the earth will match the speed of the surface of the earth rotating under it. From the ground, the satellite will appear to hang motionless. Usually the geostationary orbit is used by big weather satellites and big TV broadcasting satellites. (This apparent motionlessness is why satellite TV dishes can be mounted pointing in a fixed direction. You can find approximate south just by looking around at the dishes in your northern hemisphere neighborhood.) For Kessler purposes, GEO orbit is roughly a ring 384,400 km around. However, all the satellites here are moving the same direction at the same speed - debris doesn’t get free velocity from the speed of the satellites. Also, it’s quite expensive to get a satellite here, and so there aren’t many, only about one satellite per 1000km of the ring. Kessler is not a problem here. How bad could Kessler Syndrome in High LEO be? Let’s imagine a worst case scenario. **An evil alien intelligence chops up everything in High LEO, turning it into 1cm cubes of death orbiting at 1000km, spread as evenly across the surface of this sphere as orbital mechanics would allow. Is humanity cut off from space? I’m guessing the world has launched about 10,000 tons of satellites total.** For guessing purposes, I’ll assume 2,500 tons of satellites and junk currently in High LEO. If satellites are made of aluminum, with a density of 2.70 g/cm3, then that’s 839,985,870 1cm cubes. A sphere for an orbit of 1,000km has a surface area of 682,752,000 square KM. So there would be one cube of junk per .81 square KM. If a rocket traveled through that, **its odds of hitting that cube are tiny - less than 1 in 10,000**. **So even in the worst case, we don’t lose access to space.** Now though you can travel through the debris, you couldn’t keep a satellite alive for long in this orbit of death. Kessler Syndrome at its worst just prevents us from putting satellites in certain orbits. In real life, there’s a lot of factors that make Kessler syndrome even less of a problem than our worst case though experiment. Debris would be spread over a volume of space, not a single orbital surface, making collisions orders of magnitudes less likely. Most impact debris will have a slower orbital velocity than either of its original pieces - this makes it deorbit much sooner. Any collision will create large and small objects. **Small objects are much more affected by atmospheric drag and deorbit faster**, even in a few months from high LEO. Larger objects can be tracked by earth based radar and avoided. The planned big new constellations are not in High LEO, but in Low LEO for faster communications with the earth. They aren’t an issue for Kessler. Most importantly, all new satellite launches since the 1990’s are required to include a plan to get rid of the satellite at the end of its useful life (usually by deorbiting) So the realistic worst case is that insurance premiums on satellites go up a bit. Given the current trend toward much smaller, cheaper micro satellites, this wouldn’t even have a huge effect. **I’m removing Kessler Syndrome from my list of things to worry about.**

#### 2. Their impact card is from a decade ago – proves no brightline

#### 3. No solvency – the plan is not reverse-causal so the debris still remains in the LEO

#### 4. Err neg – zero examples of what “space debris” would be added other than satellites, which surely can’t be their only link because more satellites are publicly owned and operated than private

5. Independently, Primacy causes endless war, terror**, authoritarianism, prolif, and Russia-China aggression.**

**Ashford, PhD, 19**

(Emma, PoliSci@UVA, Fellow@CATO, Power and Pragmatism: Reforming American Foreign Policy for the 21st Century, in New Voices in Grand Strategy, 4, CNAS)

**Humility is a virtue**. Yet in the last quarter century, American policymakers have been far more likely to embrace the notion of America as the “indispensable nation,” responsible for protecting allies, promoting democracy and human rights, tamping down conflicts, and generally managing global affairs. Compare this ideal to the U.S. track record – **endless Middle Eastern wars, the rise of ISIS, global democratic backsliding, a revanchist Russia, resurgent China**, and a world reeling from the election of President Donald Trump – and this label seems instead **the height of hubris.** Many of the failures of U.S. foreign policy speak for themselves. As the daily drumbeat of bad news attests, interventions in Iraq and Libya were **not victories for human rights or democracy, but rather massively destabilizing** for the Middle East as a whole. Afghanistan – despite initial military successes – has become a quagmire, highlighting the futility of nation- building. Other failures of America’s grand strategy are less visible, but no less damaging. NATO expansion into Eastern Europe helped to reignite hostility between Russia and the West. Worse, it has diluted the alliance’s defensive capacity and its democratic character. And even as the war on terror fades from public view, it remains as open-ended as ever: Today, the United States is **at war in seven countries and engaged in “combating terrorism’ in more than 80**.1 To put it bluntly: America’s strategy since the end of the Cold War – **whether it is called primacy or liberal internationalism** – may not be a total failure, but it **has not been successful** either. Many have tried to place blame for these poor outcomes.2 But recrimination is less important than understanding why America’s strategy has failed so badly and avoiding these mistakes in future. Much of the explanation is the natural outcome of changing constraints. **Iraq and Libya should not be viewed as regrettable anomalies, but rather the logical outcome of unipolarity and America’s liberal internationalist inclination to solve every global problem.** It’s also a reliance on **flawed assumptions** – that what is good for America is always good for the world, for example. Support for dangerous sovereignty-undermining norms adds to the problem; just look at the Responsibility to Protect (R2P), which has proved not to protect populations or stabilize fragile states, but to **provoke chaos, encourage nuclear proliferation, and undermine the international institutions.** Perhaps, if nothing else had changed, a form of watered-down liberal internationalism that foreswore interventionism and drew back from the war on terror might have been possible.3 But international politics are undergoing a period of profound transformation, from unipolarity to regional or even global multipolarity. **Primacy** – and the consistent drumbeat of calls in Washington to do more, always and everywhere – **is neither sustainable nor prudent.** Nor can we fall back on warmed-over Cold War–era strategies better suited to an era of bipolar superpower competition.

### Adv 2

#### 1. Governments are much more exploitative – BRI, vaccine apartheid, unpaid labor during government shutdowns, colonization, and Persian Gulf wars prove nations only care about colonialism and sovereignty

#### 2. Mccormick is irrelevant if we prove that a better world isn’t possible to strive for within our environment, ie any extinction impact

#### 3. Spencer says nothing – the advantage would say corporate controlled future societies are not much different from our current world, but the key difference is that we will have a living society in the first place. He’s half of this advantage but his only author qual is that he’s an editor at Salon, which is some pop culture opinion website

#### 4. No reason why outer space is key to inequality or capitalism – if they’re right about imperialist elites and billionaires, Bezos and Musk wanting to colonize Mars is certainly not the brightline

### Solvency

#### 1. NU – space is already a global commons

#### 2. Plan fails –

#### Global commons still allow for private appropriation

#### China inevitably undermines solvency

#### Too many private actors ensure conflict

#### 3. Turn – limitations on commons access such as private entity restrictions lead to backlash

Stang 13

Gerald Stang (associate fellow at the EUISS) , 2013, "Global Commons: between cooperation and competition" European Institute for security studies, https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief\_17.pdf, // HW AW

Rapid economic development and increasing international trade are leading to a more crowded international stage and raising new challenges in the ‘global commons’ – those domains that are not under the control or jurisdiction of any state but are **open for use by countries, companies and individuals from around the world**. Their management involves increasingly complex processes to accommodate and integrate the interests and responsibilities of states, international organisations and a host of non-state actors. Shared rules regarding the usage of - and access to - the global commons encourage their peaceful and cooperative use. Over the last seven decades, the US has led in the creation of a liberal international order which has attempted to define these rules in such a way as to make it easier and more beneficial to join the order and follow the rules than it does to operate outside of (or undermine) it. With the rise of nonWestern, less liberal powers - particularly **China - questions must be asked regarding the durability of the existing processes for managing the global commons,** along with the potential for developing effective new processes that can address new threats and challenges. The EU is uniquely positioned to play an important role in giving value to existing multilateral frameworks and in developing new ones for international cooperation in these domains. But with a multitude of competing interests among stakeholders, much work remains to be done. What exactly are the global commons? Security analysts generally identify **four domains as global commons: high seas, airspace, outer space** and, now, cyberspace. From a security perspective, the primary concern is safeguarding ‘access’ to these domains for commercial and military reasons. It is important to highlight that this language differs from the discourse on commons developed by environmental analysts: their arguments focus on damage to the ‘condition’ of the commons from overuse by actors who do not have to pay direct costs. They worry about the depletion of shared resources such as ocean fish stocks, or the damage to shared domains such as Antarctica or the atmosphere. A third strand of analysis looks not at the need for ‘access’ to or preservation of the ‘condition’ of the commons, but at the capacity of the commons to provide ‘global public goods’. As there is no accepted definition of a global public good (a functioning trading system, peace, clean water, electricity, the internet, and many other things are often included), it may be wiser to focus on the four global commons relevant to security analysts mentioned above. While there are major differences between the ‘access’ views of security analysts and the ‘condition’ views of environmentalists, both are concerned about how the Global commons: Between cooperation and competition by Gerald Stang Photo by NASA / Rex Features (1568628a) European Union Institute for Security Studies April 2013 2 rules for use of the commons are set and enforced. In today’s interconnected world, **any limitations on access to the commons would be highly disruptive**. Militaries rely on access to the commons to pursue security goals in domains outside their sovereign control. Economic actors rely on the commons to trade and conduct business. **Changes to the condition of the commons can therefore disrupt commerce and security, not to mention the status of the global environment.** Each of the four commons discussed below possesses unique attributes and poses unique challenges for international cooperation and governance. Sea As the primary avenue for international commerce since ancient times, norms for access to and passage on the seas have developed and evolved over many years. Only in recent decades, however, have there been agreed regulatory frameworks and institutions to manage them. The UN Convention on the Law of the Sea (UNCLOS), first initiated in 1956 though not legally in force until 1994, is the primary international treaty regarding the sea, laying out rules for territorial boundaries (22km from shore), resource management and the rights of states within their exclusive economic zones (370km from shore). The International Tribunal for the Law of the Sea (ITLOS), created by UNCLOS, has the power to resolve disputes by States Parties. Except for the US, most countries and all global powers - including the EU-27 - have signed and ratified UNCLOS. The UN International Migratory Organization (IMO), created in 1948, regulates international shipping and rulings on safety, environmental and technical cooperation issues (the EU has observer status). As the world’s only global sea power, the United States has historically seen itself as the protector of free movement on the seas. With 11 carrier groups (Russia has one, rarely used) and hundreds of naval bases and allied ports throughout the globe, the US has a naval footprint that dwarfs all its allies and competitors. While countries such as Iran and China may be uncomfortable with US capacity to deny others access to the sea, US support for the creation and respect of transparent international regulations for use of the sea (which they adhere to themselves despite not having ratified UNCLOS), has allowed for the stable management of access to the seas. Except for the disruptive (but still rare) threat of piracy, access to the seas is generally a smooth and well-regulated process. The massive and relatively effective, if ad hoc, global response to the localised piracy problem off the coast of Somalia (for which the EU launched Atalanta, its own anti-piracy mission under the CSDP) highlighted the world’s impressive capacity to handle disruptions of this type. Territorial disputes exist in places like the South China Sea, but relate to historical boundary disagreements rather than conflict over rules of sea access. Normally, no state has an interest in disrupting sea trade. Even in times of crisis, while individual states may wish to deny their opponents access to certain regions, they are unlikely to harm their own interests by disrupting traffic on the world’s oceans. Environmental ‘condition’ issues in the sea commons are disconnected from ‘access’ issues. No single international treaty or body addresses pollution, overfishing or the various challenges in the melting Arctic. A confusing patchwork of sea basin cooperation groupings, regional fisheries management organisations and pollution monitoring agreements is in place. The integrated marine policy of the EU recognizes the need to improve governance of the seas while avoiding treaty congestion. While no unifying treaty or body to manage maritime issues is likely to appear, years of patient discussion in a variety of venues (of the type that the EU excels at) may lead to greater coherence and cooperation in managing environmental threats. Air International air travel requires the use of national airspace for continuous transit and involves detailed agreements that define transit rights. The UN International Civil Aviation Organisation, established in 1947, is the leading institution for regulating air travel. All EU countries are members, while the EU has observer status. As with piracy at sea, any potential disruption of access to the air commons is likely to come from non-state actors. While terrorist events can disrupt air traffic, however, intergovernmental cooperation between national police and security agencies is well established. Any systemic threat to the air commons appears so unlikely that some security analysts do not even include air as a one of the commons. Also like the sea commons, issues of management of environmental ‘condition’ are disconnected from ‘access’ issues. The accumulation of greenhouse gases is a form of pollution of the atmosphere, but the alarm stems from their effects on the biosphere rather than from the risk that the atmosphere may become unbreathable or inaccessible. The EU is a global leader on climate change, with the world’s most comprehensive emissions trading scheme and intense efforts to regulate and limit emissions. The Union has set the tone at the international level but has been unable to win agreement for an internal carbon tax or stronger emissions targets from external partners. European Union Institute for Security Studies April 2013 3 Space More than a thousand orbiting satellites facilitate communications in both the military and the civilian spheres, regulated by a mix of UN guidelines, bilater- al Cold War agreements and industry standards. The UN International Telecommunications Union (ITU) allocates radio spectrum and satellite orbits and develops international technical standards. Established in 1869, the ITU has almost universal membership among existing states, including all EU countries - though not the EU itself. The 1967 Outer Space Treaty, signed by all spacefaring nations, provides the minimal framework for activities in space, banning weapons of mass destruction and preventing states from claims to celestial bodies. The Treaty does not establish infrastructure for coordination, and consultation among party states is ad hoc. Following China’s destruction of one of its own satellites in 2007, there has been increasing concern about protection of satellites from attack. During the later stages of the Cold War, the US and the USSR tacitly agreed to a moratorium on testing anti-satellite weapons (ASAT) - but there are no binding rules in place. The satellite’s destruction also created a debris cloud which could have damaged other satellites or spacecraft. Unlike the sea and air domains, the problem of debris management in space indicates an overlap between ‘access’ and ‘condition’ issues. While access to space has previously been limited to a small number of states, **the increasing role of new actors (including from the private sector) suggests that the creation of comprehensive and binding regulations for the space commons may become more difficult.** The EU has pushed to become a key actor in space matters, working with the European Space Agency (ESA) - an intergovernmental body - on Galileo, Europe’s civilian satellite navigation system. In an effort to get ahead of the curve and manage uncertainty, the European Council approved a voluntary Code of Conduct for Outer Space Activities in late 2008 (revised in 2010) to address both space operations and space debris. It has only limited operational requirements but develops important cooperation, consultation, and notification mechanisms. To make it more palatable to the US and other states, it is not binding and has no enforcement mechanism. As with many efforts in multilateral regulation of the global commons, the US has been hesitant to agree to the Code for fear of diminishing its own freedom of manoeuvre. It may be an important step, however, in setting the groundwork for future space cooperation if the EU can follow up on the Code’s development with diplomatic action by bringing other space-faring countries on board. Cyberspace Cyberspace differs from the other commons because it is not a physical domain and because of the preponderant role of the private sector in both the infrastructure and the management of the domain. All of the physical nodes of the internet also exist within states and are subject to national law, rather than existing physically outside of national control as for the other commons. The American and security-related roots of the internet are reflected in how technical internet standards are managed. The Internet Corporation for Assigned Names and Numbers (ICANN), a private non-profit entity under contract with the US government, has ensured the coordination of internet addresses and registries since 1998. While ICANN operations have been stable - and their inclusive governance style has won imitators for handling technical issues - many countries prefer a formal international body to manage technical internet issues. The ITU has been suggested as a neutral management body, but this idea has been resisted by most Western states. Interestingly, non-Western states are pushing for international management of the internet within a framework that provides individual countries with rights and roles, rather than leaving it to the nonprofit sector to decide how the internet works. All EU-27 countries are members of the ITU and, following a European Parliament deliberation, voted as a bloc against the measures granting more power to the ITU, concerned over states wishing to regulate, control, and limit internet use. The UN Internet Governance Forum (IGF) has become the leading multi-stakeholder platform for states and other actors to debate internet governance. Regardless of the ICANN/ITU issue, states can filter and censor within their territories, and for the time being, efforts to protect against cyber attacks remain within the national sphere. Cyberspace allows for the spread of information, creating pressures for transparency in both democratic and non-democratic states. Discussions on the management of cyberspace, therefore, have become connected with those on the power of states to control information. Finally, although there is no environmental constitu- ency for cyberspace, there are constituencies of users and providers - private and public - who play a similar role in pushing for the protection of certain conditions in cyberspace. Unlike for sea and air domains, therefore, there is overlap between ‘access’ and ‘condition’ discussants. With worries about Cold War-style espionage and cyber conflict between states, cyber security problems European Union Institute for Security Studies April 2013 4 QN-AK-13-017-2A-N | ISSN 2315-1110 are expected to grow worse and are unlikely to be addressed through multilateral fora. Problems with hackers of various types make problems of attribution, response and coordination of policing very difficult. Cyber conflict involving states will ebb and flow along with the quality of the relationship between those states and competing states will continue to test each other’s cyber defences.

#### 4. The term global commons leads to a false sense of security which exploits whatever is supposedly being protected

**Clancy 98** (The Tragedy of the Global Commons, Spring 1998, <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1136&context=ijgls> pecial Assistant to the Deputy Secretary of State, US Department of State, Indiana Journal of global legal studies)//HWLND

The inherent problem in this communal property is the idea put forth byGarrett Hardin in his 1968 article entitled The Tragedy of the Commons." Hardin theorized that in communal property systems, each individual enjoys the benefit of exploiting the resource to its maximum, while the cost of this increased utilization is spread out over all users. Consequently, there is incentive for individual over exploitation. Applying this theory to global expanses shows that "the disadvantage inherent in this doctrine is that nations are free to make maximum use of resources because no outside mechanism exists to force their acceptance of external costs, either the cost of resource degradation or the cost of resource depletion."'" Much like the herding commons depicted in Hardin's essay, global commons are susceptible to overuse. 19 This problem is indeed a serious one. Global commons become, in effect, a target for over exploitation. Moreover, critics have addressed the problems of free riders and the Prisoner's Dilemma in dealing with commons.2 " The end result is the same, however. These global commons fall victim to the predatory interest of individual exploiting nations.

#### 5. Their Goehring solvency advocate concedes that global commons is about the consumption of open access resources – that links to all of their criticisms of private companies and it means public governments become just as bad

#### 6. Restrictions on space access get circumvented by underground and foreign private institutions Jirakindakul & Kovudhikulrungsri ‘10

{Watcharachai Jirajindakul & Lalin Kovudhikulrungsri, 2010, Jirajindakul Graduate School of Law National Institute of Development Administration in Thailand and Graduate School of Law Instructor, Associate Dean for Development and Planning, Lalin Kovudhikulrungsri received the bachelor’s degree in law from Thammasat University, Thailand, the LL.M. degree in air and space law from the Institute of Air and Space Law, McGill University, and the Ph.D. degree in air and space law from the International Institute for Air and Space Law, Leiden University. She is currently an Assistant Professor with the Faculty of Law, Thammasat University. She has published extensively on air and space law and human rights issues in Thai and English publications, “The Legal Loopholes in Space law: The Case of The Legal Loopholes in Space law: The Case of Shin Corporation of Thailand - Temasek Holding Shin Corporation of Thailand - Temasek Holding of Singapore Business Deal of Singapore Business Deal”, //NL}

Currently, there are four function satellites under Thailand’s communication satellite fleet. THAICOM-1A was launched on December 1993 and on October 1994, THAICOM-2 was launched. THAICOM-3, launched in 1997, was replaced by THAICOM-5 on October 2006 due to power loss. THAICOM-4 or IPSTAR, launched on August 2005 is a new generation of broadband satellite that would serve the demand for high-speed broadband Internet access. They cover areas from Central Europe through Asia coasts.40 Figure 2 depicts the shareholding structure of Shin and SATTEL as on January 20, 2006, before the transaction. Shin Corp held shares in SATTEL to the tune of 51.48% which was in compliance with the shareholding ratio condition in the Concession Agreement.41 The major shareholders of Shin securities, at that time, were the Shinawatras and their relatives. Temasek is an Asian investment house owned by the government of Singapore. Its markets are mainly Singapore, Asia and other emerging economies. Amongst this, Thailand can be considered as one of its potential market. However, the name of Temasek became familiar to Thai people after the successful takeover of Shin Corp. Temasek wished to purchase 49.59% of Shin’s shares but the then 39.02% foreign shareholding ratio in Shin made such purchase impossible to succeed without turning Shin into a “foreign juristic person” under Thai domestic law. This would also terminate concessions in Shin’s subsidiaries. Hence the transaction had to be completed through nominees, namely, Cedar Holdings and Aspen Holdings. On January 23, 2006, during the term of Prime Minister Thaksin Shinawatra, Temasek – through its nominees – successfully acquired 49.59 % stake of Shin for an approximate amount of Baht 73,300 million, or Baht 49.25 per share. At that time, Baht 40.0171 equalled to USD 1.42 4 1 FRANCIS LYALL & PAUL B. LARSEN, SPACE LAW: A TREATISE 378 (1st ed. 2009). 4 2 Concession Agreement, supra note 39, § 4.2. The original Concession Agreement mentioned that Shin has to hold at least 51% of the total shares in SATTEL. This **clause was amended to decrease the ratio** from 51% to 40% on October 27, 2004 during the Shinawatra administration. 4 3 Bank of Thailand Foreign Exchange Rate, Figure 3 indicates the structure of the deal and the shareholding structure after January 23, 2006. The 49.59% of shares were divided into 10.97% and 38.62% and purchased by Aspens Holdings and Cedar Holdings respectively. This large portion of share acquisition reached the tender offer trigger point. However, with regard to SATTEL’s stake, Cedar and Aspen were asked by the Securities and Exchange Commission not to make any tender offer for SATTEL’s securities owing to the fact that Cedar and Aspen had no intention to acquire the SATTEL’s securities and that it was considered immaterial to Shin’s assets value.44 **After the Shin-Temasek deal, SATTEL**, one of the Shin’s subsidiaries, operating four communication satellites under the awarded concession **is indirectly controlled by Temasek**, a Singaporean state-owned enterprise even though Shin changed its shareholding ratio in SATTEL from 51% to 41%. B. Thai Domestic Laws on Foreign Investment To stimulate economic growth in developing countries, foreign direct investment is an important factor. On the other side, nationalism still has influence in developing countries, including Thailand, so they wish to reserve their resources and business for their nationals. This controversy leads to the enactment of general and specific legislations on foreign investment i.e. **the Foreign Business Act** B.E. 2542 (1999) (FBA), which **governs the scope and types of permitted or prohibited business for foreigners in general**, and the Telecommunications Business Act, B.E. 2544 (2001), which particularly focuses on telecommunication sector. i. Foreign Business Act B.E. 2542 (1999) of Thailand The Foreign Business Act B.E. 2542 (1999) (FBA) defines a foreigner in Section 4. The scope of this paper focuses only on “foreign juristic person”, which is defined in Section 4 (2) – (4) as follows. “Foreigner” means… (2) Juristic person not registered in Thailand. (3) Juristic person registered in Thailand having the following characteristics: (a) Having half or more of the juristic person’s capital shares held by persons under (1) or (2) or a juristic person having the persons under (1) or (2) investing with a value of half or more of the total capital of the juristic person. (b) Limited partnership or registered ordinary partner-ship having the person under (1) as the managing partner or manager (4) Juristic person registered in Thailand having half or more of its capital shares held by the person under (1), (2) or (3) or a juristic person having the persons under (1), (2) or (3) investing with the value of half or more of its total capital.46 4 6 Supra note 38, art. Subsection (2) is simply understood. Subsections (3)-(4) use the phrase ‘capital share’. As a result, **in order to be considered a foreign juristic person, more than half of such juristic person’s share has to be held by a foreigner**. It does not have to track the shareholding ratio of the shareholder again. This clause solved the problem on the interpretation of the repealed law on foreign investment, the Announcement No. 281 of **the National Executive Council** B.E. 2515 (1972).47 In other words, it **allows foreign firms to set up subsidiaries that are nominally owned by Thais but actually controlled by foreigners.**48 In addition, **the concept of foreign juristic person had been challenged on the basis of voting right structure**. The share ratio of 51-49 can be twisted to form a nominee company by mentioning the 51% shares as a preferred share which has less voting right. The outcome is that the **foreign shareholders can always control majority vote even though they have a lower share ratio.** This practice has been approved by the Thai Ministry of Commerce since 1988.49