# Emory R1 Neg vs Harrison AC

# 1NC

### 1

#### Interp and Violation: The affirmative must only defend that the appropriation of outer space by private entities is unjust and may only garner offense from the hypothetical implementation of the resolution – the violations is preemptive – if they just derive offense from the consequences of their advocacy and use their method to do impact calc, this shell goes away – if they derive offense from their discourse or method, they violate

#### Private entity is defined by

Cornell Law n.d. “private entity” <https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=6-USC-625312480-168358316&term_occur=999&term_src=title:6:chapter:6:subchapter:I:section:1501> TG

1. In general Except as otherwise provided in this paragraph, the term “private entity” means any person or private group, organization, proprietorship, partnership, trust, cooperative, corporation, or other commercial or nonprofit entity, including an officer, employee, or agent thereof.

#### Article 2 of the Outer Space Treaty defines outer space and appropriation

OST 66 “2222 (XXI). Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.” UN Office for Outer Space Affairs, 1499th plenary meeting, Dec 19, 1966, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html> TG

ARTICLE II. Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

#### Vote neg:

#### 1] Fairness – post facto topic adjustment structurally favors the aff by manipulating the balance of prep. They can specialize in 1 area of literature for 4 years which gives them a huge edge over people switching topics every 2 months and locks us into a predictable null set of monolithic criticisms that are susceptible to the perm. Fairness is an impact - a] it’s an intrinsic good – debate is fundamentally a game and some level of competitive equity is necessary to sustain the activity which they’ve ceded validity to by participating, b] probability – individual ballots can’t alter subjectivity even if long term clash over a season can, but they can rectify skews which means the only immediate impact to a ballot is fairness and deciding who wins, c] it internal link turns every impact – a limited topic promotes in-depth research and engagement which is necessary to access all of their education

#### 2] Clash – argumentative testing along a stable tether and SSD are good – they force debaters to consider a controversial issue from multiple perspectives through nuanced 3rd and 4th level testing that only occurs alongside a stasis point for preparation. Non-T affs allow individuals to establish their own metrics for what they want to debate leading to ideological dogmatism – our argument is that the process of defending and answering proposals against a well-researched opponent is a benefit of engaging the topic regardless of the truth value of those proposals.

#### 3] TVA – their aff but not extra T – if they’re correct that appropriation is antiblack, then that’s pretty substantial consequential offense

#### Use competing interps – topicality is question of models of debate which they should have to proactively justify and we’ll win reasonability links to our offense.

#### They can’t weigh the case—lack of preround prep means their truth claims are untested which you should presume false—they’re also only winning case because we couldn’t engage with it

#### No impact turns—exclusions are inevitable because we only have 45 minutes so it’s best to draw those exclusions along reciprocal lines to ensure a role for the negative

### 2

#### The appropriation of outer space by private entities with the exception of low yield asteroid and lunar material collection for scientific study is unjust. I endorse a method of Afro-Orientalism as a recognition of the anti-Asian roots at the heart of non low yield scientific sample based private appropriation of outer space

#### Space samples are appropriated for scientific study—it’s uncontroversial as customary law but the plan bans it

**Pershing 19** (Abigail D., J.D. from Yale Law School. Robina Fellow at the Europcean Court of Human Rights. “Interpreting the Outer Space Treaty's Non-Appropriation Principle: Customary International Law from 1967 to Today,” 44 *Yale Journal of International Law* 149 2019)DR 22

The earliest hint of a change in customary international law relating to the interpretation of the non-appropriation clause came in 1969, when the United States first sent astronauts to the moon. As part of his historic journey, astronaut Neil **Armstrong** collected moonrocks that he brought back with him to Earth and promptly handed off to the National Aeronautics and Space Administration (NASA) as U.S. property.5 4 Later, the USSR similarly claimed lunar material as government property, some of which was eventually sold to private citizens.55

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

Currently, the U.S. government owns 842 pounds of lunar material.56 There is little question that NASA and the U.S. government consider this material, as well as other space materials collected by American astronauts, to be government property.5 7 In fact, NASA explicitly endorses U.S. property rights over these moon rocks, stating that "[1]unar material retrieved from the Moon during the Apollo Program is U.S. government property."

#### US case law and OST language indicate “appropriation” includes mineral rights

Leon 18 [Amanda, JD from UVA] “Mining for Meaning: An Examination of the Legality of Property Rights in Space Resources” Vol. 104:497, Virginia Law Review, https://www.capdale.com/files/24323\_leon\_final\_note.pdf, 2018 RE

Appropriation. The term “appropriation” also remains ambiguous. Webster’s defines the verb “appropriate” as “to take to oneself in exclusion of others; to claim or use as by an exclusive or pre-eminent right; as, let no man appropriate a common benefit.”165 Similarly, Black’s Law Dictionary describes “appropriate” as an act “[t]o make a thing one’s own; to make a thing the subject of property; to exercise dominion over an object to the extent, and for the purpose, of making it subserve one’s own proper use or pleasure.”166 Oftentimes, appropriation refers to the setting aside of government funds, the taking of land for public purposes, or a tort of wrongfully taking another’s property as one’s own. The term appropriation is often used not only with respect to real property but also with water. According to U.S. case law, a person completes an appropriation of water by diversion of the water and an application of the water to beneficial use.167 This common use of the term “appropriation” with respect to water illustrates two key points: (1) the term applies to natural resources—e.g., water or minerals—not just real property, and (2) mining space resources and putting them to beneficial use—e.g., selling or manufacturing the mined resources— could reasonably be interpreted as an “appropriation” of outer space. While the ordinary meaning of “appropriation” reasonably includes the taking of natural resources as well as land, whether the drafters and parties to the OST envisioned such a broad meaning of the term remains difficult to determine with any certainty. The prohibition against appropriation “by any other means” supports such a reading, though, by expanding the prohibition to other types not explicitly described.168 As illustrated by this analysis, considerable ambiguity remains after this ordinary-meaning analysis and thus, the question of Treaty obligations and property rights remains unresolved. In order to resolve these ambiguities, an analysis of preparatory materials, historical context, and state practice follows.

#### Private extraction key to study of space samples—costs

**OSI ND** (Outer Space Institute, network of world-leading space experts united by their commitment to highly innovative, transdisciplinary research that addresses grand challenges facing the continued use and exploration of space. http://outerspaceinstitute.ca/resources.html. No date but is referencing asteroid probes from 2021.)DR 22

Public-private partnerships are fostering the development of ISRU technology. NASA contracted [four private companies](https://www.nasa.gov/press-release/nasa-selects-companies-to-collect-lunar-resources-for-artemis-demonstrations/) to collect samples of regolith from the Moon’s south pole. Once collected, ownership of the samples will be [transferred to NASA in-situ](https://www.nasa.gov/press-release/nasa-selects-companies-to-collect-lunar-resources-for-artemis-demonstrations) as a move to kick-start space commerce and incentivize further investment in the development of ISRU technology. Additionally, [NASA awarded SpaceX](https://www.nasa.gov/press-release/as-artemis-moves-forward-nasa-picks-spacex-to-land-next-americans-on-moon) a $2.9 billion contract to build a human landing system that will carry astronauts to the lunar surface.

China has also made significant progress on the technological front with the success of their [Chang’e 5 spacecraft,](https://spaceflightnow.com/2021/01/01/chinese-mission-returned-nearly-4-pounds-of-lunar-samples/) which extracted a four-pound sample of lunar regolith and returned it to Earth.

The sample-return missions underway by [NASA](https://www.nasa.gov/osiris-rex) and [JAXA](https://www.hayabusa2.jaxa.jp/en/) serve as technological demonstrations of the possibilities, challenges, and dangers when interacting with asteroids. Other teams planning to do the same in the near future, some of which are commercial actors, will learn greatly from these missions

Mining asteroids could also become a very real prospect decades from now. New sample and return technology, namely the probes deployed by [JAXA](https://www.hayabusa2.jaxa.jp/en/) and [NASA,](https://www.nasa.gov/mission_pages/osiris-rex/about) have extracted material from the asteroids Ryugu and Bennu, respectively, and are returning it to Earth. Meanwhile, commercial launch companies, such as SpaceX, are drastically lowering the cost of launching equipment into space, making it accessible to a wider range of actors.

Despite[the declining investment into asteroid mining start-ups,](https://www.technologyreview.com/2019/06/26/134510/asteroid-mining-bubble-burst-history/) some ambitious companies remain waiting for a future date when it becomes economically feasible. In the meantime, they undertake other space activities, such as operating Earth imaging satellites, to maintain revenue streams.

Mining space resources, such as the Moon and asteroids, could greatly expand humanity’s knowledge about the origins of the solar system, the Earth, the abundance of water, and the origin of life. Ice and water-bearing minerals could be used to produce rocket fuel; fuel that, being sourced in space, will not need to be lifted – at great expense – out of Earth’s heavy gravity. Studying material from asteroids may also prove to be vital in humanity's defence against potential major impactors.

#### Specifically, SpaceX’s Starship enables sample collection at an unprecedented rate.

Heldmann et al 21 “Accelerating Martian and Lunar Science through SpaceX Starship Missions” May 2021 Jennifer L. Heldmann [NASA Ames Research Center, Division of Space Sciences & Astrobiology, Planetary Systems Branch], other authors listed in the article <https://surveygizmoresponseuploads.s3.amazonaws.com/fileuploads/623127/5489366/111-381503be1c5764e533d2e1e923e21477_HeldmannJenniferL.pdf> SM

Given the Starship’s anticipated low cost, high payload capacity, and potential for high flight cadence, the opportunities presented for planetary science missions have the potential to dramatically increase our progress towards NASA Planetary Science & Astrobiology goals and objectives. Building upon the NASA CLPS paradigm (Bussey et al. 2019), use of SpaceX Starships will allow for increased flights for science experiments, technology demonstrations, and capability development to enable human spaceflight missions through NASA partnership and purchase of flight payload accommodation. High priority science objectives as outlined in the Decadal Survey and NASA Strategic Plan for the Moon and Mars can uniquely be achieved through flights to lunar/Martian orbit and/or to the surface of these planetary bodies. In addition, Starship has the ability to deploy orbiters on approach. This capability would provide the opportunity to deliver either relatively large orbital assets with sophisticated remote sensing instrumentation and/or many smaller satellites that could serve a variety of purposes, including development of communications or meteorology networks.

Starship is designed to lift off from its planetary destination and return to Earth, thereby allowing not only the return of crew members but also the return of unprecedented quantities of lunar and Martian samples to Earth for scientific analysis. Because Starship can return tens of tons of payload from the surface of the Moon, the return sample mass of lunar samples from a single mission would dwarf the combined total returned mass of all lunar samples from all sample return missions to date. Many samples with greater sample variety will allow for more scientifically robust analytical studies in laboratories on Earth. Removing the need to severely high-grade and down-select samples on the Moon and Mars will also enable opportunistic science from returned samples to degrees previously not achievable. Never before has the science or exploration community had the potential to send such payload capacity to these destinations and return as much sample material as can be accommodated by Starship. The scientific progress achieved would be unprecedented.

#### Asteroid samples key to planetary defense

**Grove and Powell 20** (Phil Groves, producer of the award-winning documentary *Asteroid Hunters*. Corey Powell, reporter for discover magazine “We're Coming for the Asteroids. Are the Asteroids Coming for Us?” [https://www.discovermagazine.com/the-sciences/were-coming-for-the-asteroids-are-the-asteroids-also-coming-for-us November 30](https://www.discovermagazine.com/the-sciences/were-coming-for-the-asteroids-are-the-asteroids-also-coming-for-us%20November%2030), 2020)DR 22

Groves: The way I internalize that sort of thinking is an ounce of prevention is worth a pound of cure. You have a house. You buy a fire extinguisher, and the expense of that fire extinguisher relative to the overall cost of the house is pretty small. The amount of money that you would have to spend to send up a space telescope to look for asteroids so that we can find it before they find us, is pretty small compared to the overall economy of the world. When you go to sleep at night, you lock your front door. The chances of someone invading your house in the middle of the night is pretty minuscule as well, but you do it. This is the same thing, just on a grander scale.

And it doesn't even cost that much! NASA's budget for finding asteroids is probably less than what it costs to make **one** Hollywood asteroid-disaster movie.

Groves: That might be generous, by the way. NASA's budget for planetary defense in this past year is about 150 million bucks. Just about every Marvel movie made out there cost more than that. And this is the only natural disaster you can actually prevent from happening. You can't cork a volcano. You can't throw a net over a hurricane. You can't glue shut a fault line to stop earthquakes. But this we can stop.

What do you find most scientifically exciting about asteroids?

Groves: The coolest fact that I learned along the way [making Asteroid Hunters] is that the asteroid belt is a planet that never came to be because of this big gravitational bully called Jupiter. It jealously prevented a planet from ever taking shape because of its gravitational influences on planetesimals, which is what asteroids are. They're the leftover materials of construction of the planets of the solar system. The big gap between Mars and Jupiter is because of Jupiter's huge influence. It was the first planet to form, and it's the biggest. It kept things stirred up, gravitationally speaking, in that area, so the asteroids were never given a chance to come together and form a planet.

Then over the four-and-a-half billion years, most of the asteroids have either been sent packing outside of the solar system or sent inward, where they become impactors of the Moon and the Earth, not to mention Venus, Mercury, and Mars. Some also fall into the Sun. The asteroid belt today is maybe 1 percent of what it used to be. All of this stuff, it's a big ammo belt, just being flung outward and inward over the course of the eons.

It's an exciting time in **asteroid exploration**, with Hayabusa2 and OSIRIS-REx bringing asteroid samples back to Earth. Any thoughts **on these missions?**

Groves: They'll help us get an understanding of **the construction** of our solar system and maybe even the formation of life itself. A lot of these asteroids carry with them organic compounds. You want to know: Did they bring water to Earth and Mars and perhaps other planets?

What's also interesting about OSIRIS-REx is the asteroid it's investigating, Bennu, is one of these potentially hazardous asteroids I was referencing earlier. It's going to pass close to Earth in 2035. It's not going to hit then, but Earth's gravity could have some influence on its orbit around the Sun. After that, Bennu may become a real risk to our planet, and it's a pretty big asteroid. It’s about 500 meters across, more than 1,500 feet.

The images of Bennu are amazing. It's a diamond-shaped hunk of gravel.

Groves: It's a rubble pile, and **knowing that is an** important aspect of planetary defense. How you would mitigate the threat could depend on your understanding of the asteroid structure. Is it mostly metallic, like a big cannon ball? Or is it a rubble pile, where if you whack it too hard, it'll break apart? Then you'd have a pile of buckshot, which could be just as bad.

#### Core to deflection—poorly planned deflection makes collision more likely

**Andrews 21** (Robin George Andrews is a volcanologist and science writer based in London. His upcoming book Super Volcanoes: What They Reveal about Earth and the Worlds Beyond will be released in November 2021.“NASA’s DART Mission Could Help Cancel an Asteroid Apocalypse” <https://www.scientificamerican.com/article/nasas-dart-mission-could-help-cancel-an-asteroid-apocalypse/> November 18, 2021)DR 22

Mission planners are reasonably confident that DART’s hushed demise will successfully convey a billiardlike kick to Dimorphos, which seems hefty enough to be sufficiently squeezed by gravity’s clutches. But in the case of a slightly less substantial object, a kinetic impactor could just shoot right through, like a bullet through a cake, blowing it into small but still dangerous chunks. A successful deflection for such threats could require multiple, more gentle impacts rather than a one-and-done wallop.

Another huge unknown is Dimorphos’s appearance. It could be shaped like a potato, a dog bone, a rubber duck, [two bowling balls stuck together](https://www.scientificamerican.com/article/new-horizons-may-have-solved-planet-formation-cold-case/), or something else entirely. A colleague recently gifted Adams a donut-shaped fridge magnet, a wink to how often asteroids surprise scientists once unveiled up close by some deep-space robotic emissary. A near-spherical or even potatolike shape would be optimal for a clean hit, whereas the uneven distribution of mass from more **complex morphologies** would raise the chance of a glancing blow, one that could just “spin up the moonlet and not actually change its orbit,” says Olivier de Weck, a systems engineering researcher at the Massachusetts Institute of Technology.

In the specific and benign case of Dimorphos, all these uncertainties are mostly academic. But in the event of a deflection attempt for a true city-killer, they could prove critical. We could, for instance, **successfully deflect** a potentially hazardous asteroid only to inadvertently put it on a new orbit that makes it more likely to hit Earth in the long run. There are points in space around our planet known as gravitational keyholes, wherein Earth’s pull on the asteroid sets the errant space rock on an assuredly destructive journey. “Once you go through a keyhole, the probability of hitting the Earth is virtually 100 percent,” says de Weck. This, to put it mildly, constitutes a major hurdle for any preemptive strikes against nascent impact threats.

FOREWARNED IS FOREARMED

The emerging calculus is formidable indeed: Protecting ourselves from the most numerous and tricky (and thus most dangerous) space rocks requires more than making shots in the dark, especially when each “shot” is a multimillion-dollar deflection attempt. Ensuring **success** requires first scouting out the threat to learn any given space rock’s exact mass and ability to absorb a weighty impact.

Some of that work [can be done from Earth](https://www.scientificamerican.com/article/are-we-doing-enough-to-protect-earth-from-asteroids/), but as Dimorphos is deviously demonstrating, **tiny objects** are hard targets for remote studies. It is far better—albeit more difficult—to get up close and personal with any adversarial asteroid before trying to hit it at all. This was, in fact, ESA’s original plan, before schedule slips ensured that its reconnaissance spacecraft would arrive only after DART’s dramatic impact. In the future, miniaturized kinetic impactors could even be sent alongside scientific scouting missions, meant to merely nudge target asteroids to estimate how they would respond to more powerful deflective blows. “We have to go and characterize them better **before** we rest humanity’s fate in that one golden shot,” de Weck says.

#### Asteroids threats are existential – increasingly likely

Spencer ’18 - senior editor for Salon. He manages Salon's science, tech, economy and health coverage Keith Spencer, “The Asteroids Most Likely to Hit Earth,” Salon, January 14, 2018, <https://www.salon.com/2018/01/14/the-asteroids-most-likely-to-hit-earth/>.

Like earthquakes and volcanoes, the most frightening thing about asteroid strikes is their inevitability. Our solar system formed from a planetary nebula of dust and gas that slowly coalesced into rocks, planets, moons, and the Sun. And there are plenty of rocks still floating around. Astronomers estimate that between 37,000 and 78,000 tons of solar system debris hit Earth every year, though luckily these usually rain down in tiny pieces that burn up in the atmosphere — rather than large chunks that explode on the ground. (Although those hit us too.)

As a result, our planet is littered with little geologic memento mori that foreshadow what is to come. The Chesapeake Bay looks the way it does because of a massive impact of a three- to five-kilometer-wide asteroid that hit about 35 million years ago; even today, the region’s freshwater aquifer is at risk of being contaminated by an adjacent salty underground reservoir that was created in the wake of the impact. Oil drillers and water management agencies in the region must mitigate for a 35-million-year-old natural disaster.

Unsurprisingly given how often we get hit with space debris, meteors rank high on the list of existential horrors; some of our civilization’s most popular books and films are about the fear of a meteor impact–related disaster. Likewise, scientists periodically sound the alarm bells over the lack of resources being devoted to hazardous asteroid detection and — perhaps someday — diversion. Luckily, NASA, the California Institute of Technology and other agencies have done a fair bit of sky-scouring to track and monitor nearby hazardous space rocks of varying sizes.

The trick with estimating likely impact candidates is knowing that while many of the things on this list have a low probability of hitting us in the next century, they have higher — but more difficult to estimate accurately — probabilities of striking Earth in coming centuries. So why do most lists of potentially hazardous asteroids only estimate their orbits as far as a hundred years in advance? Partly because we are trapped in our own human perspectives — 100 years is about as long as our children will live — and partly because any orbital uncertainty is compounded year to year.

In estimating the precise location of an asteroid and extrapolating its future path, precision is key; being off by, say, 40 kilometers today will equate to an orbital uncertainty thousands of times greater many years in the future. That could easily mean the difference between a strike and a miss. (Incidentally, 40 kilometers of uncertainty is the approximate uncertainty of 3200 Phaethon, a near-miss that grazed Earth last month.)

All of this is to say that the asteroids on this list move in and out of our planet’s orbit — on a long enough timescale, we’re either going to have a close encounter or an impact, provided ours or another planet doesn’t gravitationally slingshot these space rocks into a less hazardous orbit. In picking and choosing asteroids for inclusion here, I tried to pick ones that were A) big enough to at least cause a nuclear winter, and B) that have a decent likelihood of eventual collision. The way that near-Earth objects are ranked by astronomers takes into account the number of opportunities for the orbit to intercept Earth; most of these have elliptical orbits that will swing past our planet many times.

3200 Phaethon

The aforementioned asteroid, which I wrote about last month when it had a close encounter with Earth, is rumored to be the source of the Geminid meteor shower. An asteroid creating meteor showers on Earth is unusual; but 3200 Phaethon is a weird asteroid. The atmosphere-free, 3.6 mile-wide rock swings very close to the Sun, rapidly heating the asteroid's surface, and — scientists believe — creating fractures in its surface as its temperature changes, thus releasing dust. That dust then creates the Geminid meteors, tiny particles that rain down periodically on Earth.

3200 Phaethon has a very elliptical orbit, meaning it passes close to the Sun before swinging far out again. Its motion moves it in and out of Earth’s near-circular orbit, which is how it ended up grazing us by 6.2 million miles back in December, at which point it was visible from Earth with a small telescope.

A 3.6 mile-wide asteroid like 3200 Phaethon probably wouldn’t end most life on Earth, but it would certainly muck things up for a bit. This size is just slightly bigger than the asteroid implicated in the aforementioned Chesapeake Bay asteroid impact. That asteroid created a crater over 50 miles wide and almost a mile deep, according to the US Geological Survey. Even outside that 50-mile-wide diameter, earthquakes, dust clouds and heat levels made a large swath of North America uninhabitable for a while.

Accordingly, NASA lists 3200 Phaethon as “potentially hazardous.”

2017 XO2

Despite being only 330 feet wide, 2017 XO2 merits inclusion on this list solely because this 2-million-ton rock keeps crossing Earth’s path. Like the bee that won’t stop buzzing you at the picnic, 2017 XO2 will take many passes at Earth, each with their own small probability of collision. Notably: April 28, 2041, April 29, 2047, April 28, 2053, April 29, 2059, and April 28, 2065, all have impact probabilities greater than 0.00001 percent. The Center for Near-Earth Object Studies (CNEOS) only calculates trajectories up to 2111 — uncertainties rise after that point — but it seems to swing near us around the end of April every few years, up to April 30, 2111. CNEOS calculates a cumulative impact probability of 0.002 percent between now and 2111. Threateningly, it may keep swinging by Earth for thousands more years.

2017 YZ1

Some asteroids on this list are going to cross Earth’s path again and again and keep scaring us, but 2017 YZ1 has one shot before it loses it. If it were overtime in the NBA championship game and the score were tied, 2017 YZ1 is trying desperately to dunk — by which I mean, violently collide with Earth. This 1,000-foot-wide asteroid has a non-zero chance (0.00015 percent) of hitting Earth on June 30, 2047. Those aren’t great odds, but still a much better chance than you have of winning the lottery. I suspect some actuary at Lloyd’s of London is selling 2017 YZ1 insurance by now.

Fortunately, 2017 YZ1 is only about a thousand feet in diameter, which isn’t big enough to cause an extinction event. Yet if it struck land it might create a cataclysmic explosion that would mess up our weather for a few years.

Jot down June 30, 2047, in your calendar, and then pull out your telescope, watch it sail by and toast your good fortune.

2018 AE2

As its “2018” designation hints, 2018 AE2 is hot off the observational data tables. Between 2094 and 2112, 2018 AE2 will have a number of low-probability chances to hit Earth. At 50 million tons with an impact velocity of 53,000 miles per hour, 2018 AE2 would have a destructive capacity (3,200 megatons) equal to about half the world’s nuclear arsenal. If the theory of nuclear winter is true — that the amount of smoke and ash sent into the troposphere from such a large explosion could temporarily dim the Sun’s flux on Earth, resulting in crop loss, colder days, and the probable deaths of millions or billions — we would indeed be in for trouble.

If you glean any politics from this article, take away the moral imperative for our civilization to improve our long-term thinking and invest well in planetary asteroid detection and deflection. We’re in the middle of a political era of “individual responsibility,” where it’s every person for themselves, but space hazards like these hint at the long-term absurdity of that kind of right-wing positioning. No number of tax credits or bootstrap-yanks are going to stop the asteroid from personally affecting you (and everyone else); these are equal-opportunity planet destroyers that require cooperative solutions. In a future article, I'll explore the ways that humanity might come together to deflect a hazardous asteroid, many of which are actually quite simple if done far enough in advance of impact.

### 3

#### The appropriation of outer space by private entities outside of the Republic of India is unjust. I endorse a method of Afro-Orientalism as a recognition of the anti-Asian roots at the heart of ed private appropriation of outer space outside of the Republic of India.

#### India Soft Power is high now – space is key.

Amaresh 21 Preethi Amaresh 8-6-2021 "The rise of India as a global soft power" <https://www.bridgeindia.org.uk/the-rise-of-india-as-a-global-soft-power/> (political scientist and an author of the books, "Nihonomics" and "Nanmin". She is pursuing her doctoral degree in International Relations from Geneva School of Diplomacy, Switzerland.)//Elmer

More innovative uses of soft power more recently Soft power has been expanded in diverse forms by succeeding governments in India. The government of Narendra Modi at present has been creating innovative trends in the realm of Indian diplomacy by blending contemporary elements of soft power. Today, the state has used specific soft power assets of India such as Diaspora, Yoga, Buddhism and economic support for accomplishing diplomatic triumphs and advancing the nation’s national interests. India’s Ministry of External Affairs (MEA) has determined to promote a “soft power matrix” to measure the effectiveness of the country’s soft power outreach. The goal of the MEA is going to be an indispensable test condition in the aforementioned regard. Initiatives such as ‘Destination India’ and ‘Know India’ have likewise been launched. Cultural centers like the Indian Council for Cultural Relations (ICCR) even organized a national convention ‘Destination India’ initiative for the first time in 2019 which believes that India can move up fast to be a leader of the global knowledge society. ‘Namaste diplomacy’ and ‘Medical diplomacy’ of India today has become the talk post-COVID-19. India’s supremacy in space statesmanship and technology is an added principally induced soft power means with endless prospects. India’s regional diplomacy has reached outer space with the nation launching its GSAT-9, also known as the South Asia Satellite, that aimed to bestow South Asian countries with space-enabled services. As an ancient civilization, India has a throbbing democracy, the largest in the world, a secular spirit and a speedily developing marketplace that grew to become the 5th most booming economy in 2019, overtaking the United Kingdom and France. India, to boost its communication, tourism, culture and soft power, on the whole, will have to forge multilateral and bilateral collaborations with different nations by enhancing its foreign policy and diplomacy. Due to the attractiveness of India’s culture, social values, and foreign policies in addition to the nation’s economic and military might, India will be better placed to join the rank of Asia’s great powers. India, which is expected to become a superpower by 2025, also possesses soft power advantage having a democratic system compared to China’s communist belligerent system. Since the last ten years, India has likewise elevated its indispensable resources in public diplomacy, by applying traditional and innovative channels to create and anchorage its soft power.

#### Private sector key to Indian space efforts

Raghu Krishnan, Raghu Krishnan is the technology editor for the Economic Times. In the over two decades of reporting and managing teams, he has seen the Indian IT industry grow from $ 1 billion to nearly $ 191 billion. He has a deep understanding of the shifts the Indian IT industry has undergone over the years. He has also covered science and India's aerospace R&D industry., 12-7-2020, "New space policy may take local companies global: Sivan," Economic Times, https://economictimes.indiatimes.com/news/science/new-space-policy-may-take-local-companies-global-sivan/articleshow/79599874.cms?from=mdr TDI

Bengaluru: India will draft a new space policy aimed at increasing private investments in the country’s space sector to build companies that are global in scale, Indian Space Research Organisation (Isro) chairman K Sivan told ET. The proposed regulations will be in addition to specific policies planned for launch vehicles, satellite navigation, human space mission and deep space exploration. “We want to create competition and get multiple companies in the space sector that can grow as global leaders,” Sivan said. Over 23 Indian and overseas companies have approached Isro since August seeking to harness assets built over six decades including rockets, satellites, ground stations and satellite imagery. The nodal agency is looking to transfer critical technologies through its commercial arm — New Space India Ltd (NSIL NSE -0.45 %) — to these companies at lower costs. “Space technology is costly. We want to make it viable for Indian industries and help them commercialise these technologies,” said Sivan. “We want to make the technology transfer a very simple and low-cost affair.” Last week, NSIL signed a pact to share technology as well as to allow testing facilities with Chennai-based startup Agnikul Cosmos to build a small rocket that can hurl 100 kg satellites to low-earth orbit. Bengaluru-based Pixxel, which is building India’s first private fleet of earth observation satellites, will launch its first satellite atop the homegrown polar satellite launch vehicle (PSLV) in 2021. So far, the department of space has released drafts of technology transfer policy, remote sensing and satellite communication policy for public comments. These draft policies state that Indian companies can now own and operate satellites, build rockets and launch them from Indian soil and offer satellite-based applications to consumers. The policies also define how sensitive dual-use technologies are to be utilised and stresses on the need for adherence to national and international laws. “The industry players are able to see the sea change (in our policies). They are asking for clarifications on some of them,” said Sivan. He added the policies will be notified after consultations. India is adopting the model of the US space agency National Aeronautics and Space Administration (NASA), which allowed private firms such as SpaceX to get access to its technology and facilities to build reusable rockets that have carried humans to space this year. NASA also allows startups to compete and build vehicles and solutions for its programmes, including deep space missions. The policies are also designed to make India a global hub for satellite manufacturing and launches and providing satellite-based services for global customers. Hyderabad-based Aerospace firm Ananth Technologies is setting up a joint venture with US satellite operator Saturn Satellites, through which it will first build two communication satellites and launch them locally on an Indian rocket. Ananth is the first Indian private company to tap the global market after India opened up its space sector, which allows private firms to build satellites and rockets and offer space services from the country. “Earlier, when IITs produced aero-space engineers, there was not a strong domestic industrial ecosystem to employ them. Today, with our historic reforms in the space sector, the last frontier before humanity has opened up to Indian talent,” Prime Minister Narendra Modi told a Pan IIT conference on Friday. India has nearly 50 space startups in the sector and over 1,000 companies — both small and medium enterprises (SMEs) and large enterprises such as Larsen & Toubro, Godrej Aerospace, Tata Advanced Systems and Hindustan Aeronautics, which have been vendors to Isro, building systems and subsystems for the space programme. After opening the space sector to private firms in August, the department of space formed Indian National Space Promotion and Authorisation Centre (IN-SPACe), a new body that will act as a regulator whose rulings would apply to the space agency as well as private firms in the country. Sivan said an independent board is being set up and an approval is expected from the government by the end of December.

#### Space amplifies other aspects of India’s Soft Power Projection.

Kathayat 20 Sarthak Kathayat 11-1-2020 "Soft Power and India’s Space Diplomacy" <https://niice.org.np/archives/6420> (Media graduate from Guru Gobind Singh Indraprastha University)//Elmer

In international relations, soft power is the ability of any country to persuade other countries to do what it wants without the use of force. According to Joseph Nye Jr., soft power is – getting others to want the outcomes that you want – co-opts people rather than coerces them. As compared to hard power, soft power takes relatively longer to built as its intangible resources develop over a long time. Soft power tends to change other party’s attitude to the end where she acts voluntarily in a way which is different to her usual behaviour. Several characteristics of the current world order like globalisation driven economic interdependence, rise of transnational actors, resurgence of nationalism in weak states, the spread of military technology and the changed nature of international political problems have significantly reduced the effectiveness of hard power strategies. The most noteworthy example of a foreign policy misadventure based solely on hard power strategies is the 2003 US invasion of Iraq. Soft power also has its own weakness. However, the ineffectiveness of soft power strategies is an exception. In longer-term, soft power strategies appear to be more effective in the contemporary world order than the hard power. One such tool of soft power is the space technology and space diplomacy. Space technology are increasingly viewed as a crucial instrument of soft power as states have now understood the direct relation between the technological feats and global prestige that follows. Expertise in rocket science puts a state on a higher pedestal than the countries who are still struggling in the domain. Moreover, expertise in rocket science ensues significant strategic implications. The output delivered has noteworthy social and economic relevance with a massive growth potential. In a broadening concept of security that encompasses other dimensions such as economic, environmental and political, Indian space programme has been distinctive and lucid in the way it simultaneously addresses the requirements of the Indian citizenry and the state collectively in all the dimensions. Despite being challenged by numerous embargoes and technology denial regimes during Cold War, Indian space programme has emerged as the most cost-effective and successful space programme in the world. India’s space programme has been a tremendous achievement for a developing country which despite being faced with many challenges used space as a crucial mechanism to lift its people out of poverty through education, social and economic programmes. With the course of time, India’s space policy has become an intrinsic part of India’s foreign policy to strengthen India’s position as a dominant power in South Asia. Indian Space Programme India’s space programme has been seen making efforts in projecting soft power which is especially evident through its new commitment to planetary exploration and human spaceflight. The Chandrayaan-1 and Mangalyaan-1 mission cleared the fact that India now looks at space as a standard of global standing. India’s soft power has witnessed a progression with an increasingly successful participation in global space economy through ISRO’s commercial arm, Antrix Corporation. India’s growing influence on the global space economy has been an indication of its changing stature in international arena. India has also been involved in capacity building initiatives. It has successfully established itself as a leader in terms of healthcare provisions through satellite-based telemedicine. India hosts the largest telemedicine network in South Asia which has also expanded to the African continent. A non-profit Indian organisation named Apollo Telemedicine Networking Foundation has been involved in telemedicine services with dedicated centres in Iraq, Yemen, Kazakhstan and Myanmar. India’s Space Diplomacy Further using space for diplomacy in order to project its soft power across the globe, India has assisted countries like Colombia in launching its satellite which boosted India-Colombia relations. Many Latin American countries are often dependent on the US for space and military matters. However, after the launch, many countries like Argentina, Bolivia, Brazil, Chile, Ecuador, Mexico, Nicaragua and Venezuela have reached out to ISRO for launching or developing satellites. Similarly, India’s PSLV also launched Israel’s TecSar satellite in 2008 for remote sensing purposes. The launch boosted the political and strategic relations with Israel. Once a recipient of space technology from developed countries, India has demonstrated the robustness of its own space programmes by setting up joint projects and even providing assistance at the time of disaster to a number of countries. ISRO’s Oceansat-2 satellite played a pertinent role in monitoring Hurricane Sandy and helping the authorities to implement timely disaster mitigation and rescue strategies. Adding more feathers to its hat, ISRO has also launched dozens of satellites for US, Europe and Britain based companies. The recent launches of British reconnaissance satellites, NovaSAR and S1-4 are a sign of what could come next. Britain is one of the EU’s biggest spender in space sector. After Brexit, the dispute over Britain’s continued access to the European Union’s Galileo satellite navigation project will inevitably lead Britain look for alternatives and India’s space ambitions could offer a tempting proposition within the ambit of wider bilateral cooperation. As a part of India’s efforts in space diplomacy, ISRO undertook another capacity building initiative ‘Unispace Nanosatellite Assembly and Training (UNNATI)’. Under UNNATI, ISRO planned to train 45 countries in making Nano-satellites. Closer to home, India proposed a SAARC satellite in 2014 for the overall development of the region. The proposal was welcomed by SAARC nations but unfortunately the proposal couldn’t materialise as envisioned initially due to Pakistan’s backing out from the project. However, three years later, in 2017, ISRO launched the South Asia satellite or GSAT-9 to help India’s neighbouring countries in space communication. The idea of South Asia satellite ensured no political impediment as with the case of SAARC satellite. The positive spill over effect of the satellite’s launch on India’s “neighbourhood first” diplomacy was well demonstrated by the warm responses given by the leaders of South Asian countries. India’s space diplomacy with neighbours also extends on a bilateral basis. For instance, in Afghanistan, India included remote sensing satellite transmitters for acquiring space-based data in a USD 1.2 billion aid package. It is evident that soft power strategies are more relevant than the hard power strategies, especially in the contemporary world order. The rise of China as an emerging superpower is backed with its economic and military might leave less avenues for other developing nations such as India to contest China. However, soft power strategies open up another dimension for the interaction of the nations. India has utilised space as a tool of its soft power effectively in order to expand its clout. That space being an intrinsic part of India’s foreign policy has brought numerous achievements to the country, and is expected to remain an essential element for future course of India’s foreign policy.

#### Indian leadership is key to stability in the South China Sea.

**Bhalla 21** [Abhishek Bhalla, Abhishek Bhalla is an Editor with India Today TV chasing news stories on defence, strategic affairs, security and conflict. His work takes him to military zones to report accurately on the ground realities. Working as a journalist since 2005, his experience spans working across platforms -- newspaper, magazine, broadcast and now trying new things on the digital space. In the past has extensively covered crime, investigationg agencies and courts. 6-16-2021, accessed on 11-2-2021, India Today, "India supports freedom of navigation in int’l waterways like South China Sea: Defence Minister Rajnath Singh ", <https://www.indiatoday.in/india/story/india-navigation-south-china-sea-defence-minister-rajnath-singh-china-1815476-2021-06-16>] Adam

India supports freedom of navigation, over flight, and unimpeded commerce in these international waterways, Defence Minister Rajnath Singh said on Wednesday as he spoke about maritime security challenges and made a reference to developments in the South China Sea hinting at China’s expansionist policy. “The sea lanes of communication are critical for peace, stability, prosperity and development of the Indo-Pacific region. In this regard, developments in the South China Sea have attracted attention in the region and beyond,” Rajnath Singh said in his address at the eighth meeting of defence ministers from the Association of Southeast Asian Nations (Asean). Rajnath Singh was referring to the escalating territorial conflict in the South China Sea. China lays claim to nearly all of South China leading to tensions over territorial rights in the waters with Brunei, Indonesia, Malaysia, Philippines, Taiwan, and Vietnam. Earlier this month, Malaysia scrambled jets to intercept Chinese aircraft it accused of breaching its airspace. “India hopes that the Code of Conduct negotiations will lead to outcomes that are in keeping with international law, including the United Nations Convention on the Law of the Sea (UNCLOS) and do not prejudice the legitimate rights and interests of nations that are not a party to these discussions,” he said. India calls for a free, open and inclusive order in the Indo-Pacific, based upon respect for sovereignty and territorial integrity of nations, peaceful resolution of disputes through dialogue and adherence to international rules and laws, Rajnath Singh said. The ministers gathered online for a meeting hosted by Brunei, this year's Asean chair. “India has strengthened its cooperative engagements in the Indo-Pacific based on converging visions and values for promotion of peace, stability, and prosperity in the region,” the minister said. The minister added that India supports the utilisation of Asean-led mechanisms as important platforms for the implementation of our shared vision for the Indo-Pacific. India’s engagement with the South East Asian region, of which ASEAN has been a primary component, is based on its ‘Act East Policy’ announced by PM Narendra Modi in November, 2014. Key elements of this policy are to promote economic cooperation, cultural ties and develop strategic relationships with countries in the Indo-Pacific region through continuous engagement at bilateral, regional and multilateral levels. Talking about terrorism, Singh said terrorism and radicalization are the gravest threats to peace and security that the world is facing today. He said India shares global concerns about terrorism and believes that in an era when networking amongst terrorists is reaching alarming proportions, only through collective cooperation can the terror organizations and their networks be fully disrupted, the perpetrators identified and held accountable, and strong measures are undertaken against those who encourage, support and finance terrorism and provide sanctuary to terrorists. “As a member of the Financial Action Task Force (FATF), India remains committed to combat financing of terrorism,” the minister said. He also asserted that cyber threats loom large, as demonstrated by incidents of ransomware, Wannacry attacks and cryptocurrency thefts and are a cause of concern. A multi-stakeholder approach, guided by democratic values, with a governance structure that is open and inclusive and a secure, open and stable internet with due respect to the sovereignty of countries, would drive the future of cyberspace, Singh said. He also said that India shares a deep connect with Asean and has continued its active engagement in many areas contributing to regional peace and stability, particularly through Asean-led mechanisms.

#### SCS conflict goes nuclear – threat’s underrated.

Talmadge 18 Caitlin Talmadge 10-15-2018 “Beijing’s Nuclear Option: Why a U.S.-Chinese War Could Spiral Out of Control” (Associate Professor of Security Studies at the Edmund A. Walsh School of Foreign Service at Georgetown University)//Elmer

As China’s power has grown in recent years, so, too, has the risk of war with the United States. Under President Xi Jinping, China has increased its political and economic pressure on Taiwan and built military installations on coral reefs in the South China Sea, fueling Washington’s fears that Chinese expansionism will threaten U.S. allies and influence in the region. U.S. destroyers have transited the Taiwan Strait, to loud protests from Beijing. American policymakers have wondered aloud whether they should send an aircraft carrier through the strait as well. Chinese fighter jets have intercepted U.S. aircraft in the skies above the South China Sea. Meanwhile, U.S. President Donald Trump has brought long-simmering economic disputes to a rolling boil. A war between the two countries remains unlikely, but the prospect of a military confrontation—resulting, for example, from a Chinese campaign against Taiwan—no longer seems as implausible as it once did. And the odds of such a confrontation going nuclear are higher than most policymakers and analysts think. Members of China’s strategic com­munity tend to dismiss such concerns. Likewise, U.S. studies of a potential war with China often exclude nuclear weapons from the analysis entirely, treating them as basically irrelevant to the course of a conflict. Asked about the issue in 2015, Dennis Blair, the former commander of U.S. forces in the Indo-Pacific, estimated the likelihood of a U.S.-Chinese nuclear crisis as “somewhere between nil and zero.” This assurance is misguided. If deployed against China, the Pentagon’s preferred style of conventional warfare would be a potential recipe for nuclear escalation. Since the end of the Cold War, the United States’ signature approach to war has been simple: punch deep into enemy territory in order to rapidly knock out the opponent’s key military assets at minimal cost. But the Pentagon developed this formula in wars against Afghanistan, Iraq, Libya, and Serbia, none of which was a nuclear power.

## Case

#### Condo’s good – a) prep skew – they’re more familiar with the aff so I need to be able to leverage multiple forms of prep, b) reciprocity – no condo means every perm becomes a no risk issue which creates NIBs to ballot access

#### PICs are good – a) strat skew – they’ve had more time to prep the aff so I need to be able to test it from diff angles, b) they chose to put it in the aff and should be held accountable

### Adv proper

#### Endless alt causes – every card in the advantage shows that appropriation can be a manifestation of antiblack and colonial structures – but none of their ev is reverse causal that 1. Appropriation CAUSES racism or 2. Doing away with it solves anything

#### They’ll say explaining oppression is enough – we’ll impact turn that – its lazy activism that never leaves the ivory tower – we need solution.

No solvcency

### Method and Framing

#### The role of the ballot is to determine if the aff’s a good idea—anything else is self-serving, arbitrary and begs the question of the rest of the debate. Evaluate consequences

Christopher A. Bracey 6, Associate Professor of Law, Associate Professor of African & African American Studies, Washington University in St. Louis, September, Southern California Law Review, 79 S. Cal. L. Rev. 1231, p. 1318

Second, reducing conversation on race matters to an ideological contest allows opponents to elide inquiry into whether the results of a particular preference policy are desirable. Policy positions masquerading as principled ideological stances create the impression that a racial policy is not simply a choice among available alternatives, but the embodiment of some higher moral principle. Thus, the "principle" becomes an end in itself, without reference to outcomes. Consider the prevailing view of colorblindness in constitutional discourse. Colorblindness has come to be understood as the embodiment of what is morally just, independent of its actual effect upon the lives of racial minorities. This explains Justice Thomas's belief in the "moral and constitutional equivalence" between Jim Crow laws and race preferences, and his tragic assertion that "Government cannot make us equal [but] can only recognize, respect, and protect us as equal before the law." [281](http://web.lexis-nexis.com/universe/document?_m=cd9713b340d60abd42c2b34c36d8ef95&_docnum=9&wchp=dGLbVzz-zSkVA&_md5=9645fa92f5740655bdc1c9ae7c82b328) For Thomas, there is no meaningful difference between laws designed to entrench racial subordination and those designed to alleviate conditions of oppression. Critics may point out that colorblindness in practice has the effect of entrenching existing racial disparities in health, wealth, and society. But in framing the debate in purely ideological terms, opponents are able to avoid the contentious issue of outcomes and make viability determinations based exclusively on whether racially progressive measures exude fidelity to the ideological principle of colorblindness. Meaningful policy debate is replaced by ideological exchange, which further exacerbates hostilities and deepens the cycle of resentment.

#### A predictable stasis point is good and their rotb is arbitrary and unethical – filtering out content by saying “but our discussion’s important” is a rhetorical tactic straight out of Trump’s pocket breeds dogmatic group polarization and trades argumentation for power

#### Solutions are possible - Institutional engagement – debate is imperfect, but only our interpretation can harness legal education to understand the law’s strategic reversibility paired with intellectual survival skills that help us navigate and contest violent structures. This is the most plausible internal link from debate to meaningful social and political agitation for social justice.

Archer 18 (Deborah N., Associate Professor of Clinical Law @ NYU School of Law, “POLITICAL LAWYERING FOR THE 21ST CENTURY,” draft, pp. 1-43) \*Edited\*

Many law students are overwhelmed by injustice. When faced with the reality of systemic inequities, even the most committed students may surrender to hopelessness, despair, and inaction. This is not because they have stopped caring about injustice, but because they cannot envision a path from injustice to justice. Many do not have the tools to navigate systemic injustice or respond to interwoven legal and social ills. This article contends that although clinical legal education provides an excellent opportunity to offer students the skills, experience, perspective, and confidence to grapple with today’s complex social justice issues, it has not sufficiently responded to the changing educational needs of our students by teaching law students how to most effectively utilize litigation alongside other tools of systemic reform advocacy. How can clinical education prepare law students to navigate issues of systemic discrimination and injustice? Clinical teaching’s signature pedagogical vehicle involves students providing direct representation of individual clients in straightforward, manageable cases in which students focus on discrete legal issues, take full ownership of the case, and see it through from beginning to end.1 These cases train students to be creative problem solvers for individual clients. However, this model does not effectively prepare students to address and combat structural or chronic inequality. The individualized model also provides relatively limited opportunities for students to address the intellectual and skills-based challenges of lawyering on a larger scale.2 Complex cases allow students to explore the complicated relationship between justice, law, and politics.3 They introduce students to many of the skills needed to integrate rebellious or political lawyering into their practice, including working with others to brainstorm, design, and execute an advocacy strategy; helping to build and participate in a coalition; engaging in integrated advocacy; and analyzing the outside forces that help shape outcomes, including organizational capacity, challenges of enforcement, and potential political backlash.4 There is a longstanding and ongoing debate within the clinical legal education community about the relative merits of small, individual cases versus larger impact advocacy matters.5 The parameters of this debate, coupled with an influential body of clinical scholarship criticizing impact litigation and the lawyers who bring it,6 have led the clinical teaching community to overreact to these critiques by moving farther away from impact advocacy and strategic litigation rather than working to reconcile the legitimate concerns with the critical importance of impact advocacy as a tool for both systemic social change and legal education. Law schools also face internal and external pressures that affect their willingness to engage students in strategic litigation. The result is that important benefits of impact advocacy and strategic litigation have gotten lost or minimized. Twenty years ago, social justice advocates rallied around political lawyering as a tool for more effective advocacy on behalf of marginalized communities.7 Political lawyering employs a systemic reform lens in case selection, advocacy strategy, and lawyering process, with a focus on legal work done in service to both individual and collective goals.8 While litigation is central to political lawyering, political lawyers recognize that litigation, interdisciplinary collaboration, policy reform, and community organization must to proceed together. Litigation is just one piece of a complex advocacy puzzle. However, clinical law professors have never fully grappled with how to employ this model.9 Law professors today seeking to train the next generation of social justice advocates should expose students to the transformational potential of integrated advocacy—strategic litigation, community organizing, direct action, media strategies, and interdisciplinary collaboration proceeding together—in the fight for social change. Political lawyering can serve as a model. The NAACP strategy of building comprehensive advocacy campaigns to challenge racial and economic injustice helped to launch the political lawyering movement in the last century.10 But political lawyering in the 21st century needs to do more. It needs to re-embrace and update the concept of integrated advocacy to help lawyers leverage a broad range of tools and perspectives to generate effective approaches to issues of injustice, both nascent and chronic. Charles Hamilton Houston, the architect of the strategy to challenge the racialized policy of “separate but equal,” whose life work challenged racial injustice in novel ways, famously explained that “a lawyer’s either a social engineer or he’s a parasite on society,” defining social engineer as a “highly skilled, perceptive, sensitive lawyer who understood the Constitution of the United States and knew how to explore its uses in the solving of problems of local communities and in bettering the conditions of the underprivileged citizens.”11 Law schools should set as an ambition teaching students to push boundaries in diagnosing and tackling the most pressing problems facing society. The Article proceeds in three parts. Part I discusses political lawyering and explores its potential to serve as a framework to teach students the legal and extra-legal advocacy skills necessary to tackle the complex challenges of systemic injustice and inequity. Part I also discusses the institutional barriers that limit the ability and willingness of legal educators to exploit the pedagogical potential of a political lawyering framework, including the idea that litigation is often harmful to the cause of justice because it puts the lawyer ahead of the community being served. Part I then examines whether the choice that clinical legal education makes to teach through small, single-issue cases rather than through more complex vehicles offers students sufficient opportunities to develop the array of skills needed for integrated advocacy. Part II describes the ways that clinical legal education can reframe political lawyering as political justice lawyering, both to adapt to the current environment—complicated by the current partisan political climate—and the contemporary challenges of social justice advocacy. It also explores pedagogic strategies that clinical legal educators can employ to train effective 21st century social justice lawyers. Finally, Part III presents a case study from my own teaching to elucidate the opportunities and challenges inherent in this approach to clinical teaching. I. POLITICAL LAWYERING AS A FRAMEWORK FOR LEGAL EDUCATION “Social vision is part of the operating ethos of self-conscious law practice. The fact that most law practice is not done self-consciously is simply a function of the degree to which most law practice serves the status quo. Self-conscious practice appears to be less important, and is always less destabilizing, when it serves what is, rather than what ought to be.” - Gary Bellow12 In 1996, the Harvard Civil Rights-Civil Liberties Law Review published a symposium on “political lawyering”: a model of social justice advocacy that integrates legal advocacy and political mobilization by linking courtroom advocacy to community education, mobilization, and organizing.13 The symposium, honoring Gary Bellow, a leading political lawyer of the time and one of the architects of clinical legal education, explored the potential for political lawyering to respond to the social justice challenges of the moment.14 At the time of the symposium, progressive scholars and activists believed that America was in a period of retrenchment on civil rights and were in search of sources of hope.15 In the face of waning public support for the poor and disenfranchised, both financially and philosophically, one of the biggest dangers social justice advocates faced was despair about the possibility of progress.16 Bellow contended that the nation’s ideological reconfiguration created a potentially debilitating doubt among lawyer-activists who, faced with declining avenues for change, had “embraced a far too constricted definition of both the possible and desirable in law-oriented interventions than is, in fact, dictated by the rightward turn of national and local politics.”17 With victory harder to achieve, he insisted that lawyers who embraced and reimagined political lawyering would advance the fight for equality more effectively. The purpose of political lawyering is not to advance a particular partisan agenda: It is to represent disenfranchised communities against the forces of oppression.18 While difficult to define precisely, political lawyers take a politicized and value-oriented approach to legal work done in service to both individual and collective goals,19 embracing “politics” in the classical sense as a concern “with what it means to be human; what is the best life for a human being; and . . . the ways in which we can order our living together so that good human lives will emerge.”20 Practically, political lawyers use a systemic reform lens in decisions about case selection, advocacy strategy, and the lawyering process. Political lawyers think about the relationship between law, politics, and justice21 and use the law to animate fundamental change in society, to alter the allocation of power and opportunity, and to enable those individuals and communities with little power to claim and enjoy their rights.22 Political lawyers also take advantage of opportunities to influence the perceptions and behaviors of those in power.23 Finally, political lawyers empower individuals and communities by providing them with competent legal advocacy,24 but do not confine themselves to one mode of advocacy in their quest for structural change. Instead, political lawyers use integrated advocacy strategies, including litigation, legislative advocacy, public education, media, and social science research, assessing the efficacy and impact of each tool in service to a long-term visions of equality and solidarity.25 A. A ROLE FOR POLITICAL LAWYERING IN CLINICAL LEGAL EDUCATION In his essay, Gary Bellow described several examples of his experience as a political lawyer.26 He reflected that: Certainly, if one focuses on the strategies employed in these examples, few uniformities emerge. In some of the efforts, we sought rule changes or injunctive relief against a particular practice on behalf of an identified class. In other situations, we pursued aggregate results by filing large numbers of individual cases. Some strategies are carried out in the courts. At other times we ignored litigation entirely in favor of bureaucratic maneuvering and community and union organizing. Even when pursuing litigation, we often placed far greater emphasis on mobilizing and educating clients, or strengthening the entities and organizations that represented them, than on judicial outcomes. And always, we employed the lawsuit, whether pushed to conclusion or not, as a vehicle for gathering information, positioning adversaries, asserting bargaining leverage, and adding to the continuing process of definition and designation that occurs in any conflict.27 The parallels between the challenges social justice lawyers faced in the 1980s and 1990s and those that law students committed to social justice 28 face today are evident. As discussed earlier, law students’ own despair about the enormity of the fight for justice can compromise their ability to recognize and tackle chronic injustice. Like the earlier generation of political lawyers Bellow described, many law students today find it difficult to believe in the possibility of change let alone its likelihood. Inexperience challenging systemic legal problems exacerbates their skepticism. They recognize that the advocacy tools they have learned are insufficient to solve today’s problems, which fuels their sense of doubt. To help expand their understanding of what may be possible, law students, particularly those interested in continuing the fight for racial justice, should be taught to understand and embrace the goals, strategies, and tools of political lawyering—re-imagined for current times. Clinical professors need not adopt political lawyering wholesale as the only or primary approach to teaching lawyering skills and legal advocacy. Indeed, one of the challenges social justice advocates face is unnecessarily limiting the understanding of what it means to be a good lawyer. Rather, clinical professors should explore political lawyering as one framework they can use to help struggling law students find direction and inspiration, as well as to create a sense of connection to the work of the social justice lawyers who preceded them. As Gary Bellow wrote: Doubt and defeatism, the sense of overly pessimistic assessments of action possibilities, are recurrent experiences in oppositional politics, whomever the political actors may be. They require hard-headed assessments of what works and why; a willingness to relinquish strategies and goals born of different possibilities and particularities. . . . Doubt and defeatism produce powerful spirals that can only be broken by acts of will and leaps of faith.29 To be an effective political lawyer, an advocate must have a “profound willingness and ability to learn about and respond to the complexity of real human beings in ever-shifting legal, economic, and social worlds.”30 So, while political lawyering is certainly grounded in effective legal advocacy, it demands more than conventional legal skills. The political lawyer values deep personal involvement as a necessary component in addressing and tackling legal issues. That personal engagement can take many forms, but, at a minimum, involves countless conversations, collaborative brainstorming, comparing shared experiences, and adding empathy and commonality to enhance the legal analysis and political judgment.31 It also requires lawyers to advocate with a clear vision of what justice looks like because effective political lawyering “reache[s] not only across large numbers of people, but from the present into some altered version of the future.”32 Learning to combine savvy legal analysis with broad engagement, a deeper understanding of the complexity of the problems faced by impacted communities, and envisioning an altered and more just future can help lead to real solutions and overcome passivity and ~~paralysis~~.33 The Civil Rights Movement, with its blended advocacy strategies, pulling a variety of levers to enable immediate or systemic change, offers one example of political lawyering. Visionary leaders helped give voice to the frustrations and demands of the community, while other leaders acted as tacticians to devise, plan, and coordinate the strategy.34 There were sustained and strategic protests to draw public attention to injustices, demand change, and apply political pressure. The strategic use of litigation led gradually to the establishment of the building blocks for systemic change.

Finally, civil rights lawyers worked to enshrine litigation victories in legislation.35 While the goal of political lawyering is to empower and advance the rights of disadvantaged communities, the lawyers who engage in it also reap significant benefits. One scholar effectively articulated some of these benefits utilizing religious terms, asserting that political lawyering can provide hope and direction to advocates by providing a “faith”—“a story, an account of a rational hope that provides people with an image and principles for realizing the sort of lives they ought to live.”36 Political lawyering can also provide what Christians refer to as a “gospel”—a story that explains and inspires.37 The faith and gospel of political lawyering can help lead law students who are overwhelmed by injustice to a place of deeper understanding and more effective advocacy. But law students must learn how to understand, articulate, and deploy that faith and gospel in service of others. B. INSTITUTIONAL CONSTRAINTS ON POLITICAL LAWYERING Complex social justice problems offer robust opportunities to teach students about the law and lawyering, and legal clinics serve as an important vehicle to bring that set of issues and experiences into the classroom.38 As law schools reevaluate the nature and function of legal education in light of market forces,39 they should also give attention to the role of justice in the curriculum and the potential for law school clinics to be centers for incubation of new and evolving models of lawyering. By embracing political lawyering and encouraging engagement on complex and novel social justice issues, clinical legal education can operate as a “generator of new visions for legal practice” on behalf of poor and marginalized communities.40 Of course, that choice is not without hurdles or concern. 1. Ideological, Financial, and Pedagogical Pressures When clinical and experiential learning programs have moved away from an access to justice model—with a focus on the immediate challenges facing individual clients—to a broader social justice model focused on systemic reform and community empowerment, they have often encountered criticism from inside and outside of the legal academy.41 First, critics have raised concerns that integrated advocacy in support of systemic reform may elevate the profile of faculty and law schools but detract from an appropriate focus on the educational goals of individual students.42 Others have identified the potential for violating the separation between pedagogy and partisan politics.43 And still other critics have identified a risk that faculty will impose their personal political perspectives on their students.44 As discussed in more detail below, integrated advocacy strategies can, in fact, serve as valuable clinical teaching tools that promote broader student learning and support important pedagogical goals. By contrast, exclusive reliance on individual representation offers limited opportunities to teach essential lawyering skills, including the skills critical to identifying and challenging systemic injustice.45 Every clinical program makes a political decision in deciding which cases to take or not to take, as each decision has political implications.46 Accepting cases in criminal justice, immigration, environmental justice, and international human rights, for example, involves political choices, regardless of whether the issues are addressed through individual representation or systemic reform efforts.47 Clinics will continue to represent individual clients who are the victims of poverty, discrimination, and disenfranchisement. These cases do not suddenly become inappropriate teaching tools because the lawyer aggregates those claims and utilizes complementary strategies to seek systemic, community-wide redress. Lawyers must be free to use all available means to challenge the marginalization of their clients, including strategic litigation, legislative advocacy, and other advocacy strategies designed to achieve systemic reform. If law schools intend to fulfill their promise to prepare law students to tackle urgent and pressing challenges, then they must teach students to identify and address interlocking legal and social problems. Still, while law schools have educational ambitions, they also face financial demands that might affect their educational choices. In fact, those financial realities may motivate schools to avoid disputes that expose them to financial risk and to a potential loss of good will that a clinic’s involvement in controversial cases might occasion.48 While that institutional concern certainly has merit, it is not unique to political lawyering on behalf of clients. Whenever a law school chooses to represent clients, there is the potential for someone to take issue with the school’s choice of side or client. Similarly, law schools may experience external pressures from government, private entities, donors, and alumni to prevent the use of law school resources to challenge powerful corporate or government interests.49 These critiques evoke the successful challenge to Legal Services Corporations engaging in class action litigation on behalf of their clients50 and the long history of efforts to limit the means through which clinics can represent their clients.51 History is replete with examples of external attacks on law schools’ clinical efforts. From the 1968 attack by state legislators on the clinical program at the University of Mississippi School of Law over its involvement in a school desegregation suit,52 to the early 1980s threats to limit the activities of the University of Connecticut’s criminal defense clinic after the clinic successfully challenged a provision of the state’s death penalty statute,53 to the 2017 decision of the University of North Carolina Board of Governors to defund the law school’s Center for Civil Rights’ work to challenge systemic and racialized barriers to equality, law schools have experienced public scrutiny and scorn for their client and case selection decisions. A clinical faculty member’s case selection decisions should not be without limits or guidelines. For example, limited resources and specific pedagogical objectives will necessarily dictate which cases will be considered appropriate. However, making case selection decisions on the basis of pedagogical choices differs fundamentally from decisions based on ideological pressure from outside forces. The latter raises fundamental questions of academic freedom and other professional responsibilities.54 Clinical faculty members must maintain some independence to choose cases and clients that meet that clinic’s educational and public service goals.55 2. The Anti-Litigation Bias Political lawyers have long embraced litigation’s potential to achieve “radical extensions of democracy, equality, and racial justice” in addition to structural and cultural change.56 Law reform and structural change are important aspects of political lawyering.57 Accordingly, impact litigation on behalf of marginalized people and communities has long been an important tool for political lawyers.58 Indeed, the NAACP’s fight against racial segregation and inequality in the 1940s and 1950s represents an early example of political lawyering that strategically deployed litigation as part of a comprehensive effort to resist oppression and advance equality.59 Political lawyering never embraced an exaggerated belief that litigation should be the centerpiece of the fight for equality.60 Instead, like the advocates at the heart of the NAACP’s desegregation strategy, political lawyers “recognized that litigation, interdisciplinary collaboration, and community organization had to proceed together.”61 In the late 1990s and early 2000s, political and cultural shifts affected the strategies many political lawyers employed. New federal restrictions on the use of impact litigation and legislative advocacy by legal services lawyers were a cause of significant concern.62 Where impact litigation remained a possibility, many political lawyers worried that litigation offered a dangerous path. Although federal courts, in particular, had proved supportive in the fight for racial justice in the 1960s, progressive lawyers in later years worried that a more conservative judiciary was just as likely, if not more inclined, to set back progressive movements.63 This concern proved correct, particularly in the area of racial justice. Decades of conservative appointments to the federal bench64 led to a series of legal setbacks65 that effectively limited the federal courts as a venue for the redress of illegal discrimination.66 Many advocates also believed that while progressive lawyers were toiling away in the courtroom and achieving only minor success, conservative advocacy groups had mastered the more efficacious strategy of building powerful grassroots constituencies.67 As courts increased their hostility to civil rights and racial justice, making victory and progress more difficult, political lawyers turned away from litigation and began focusing on alternative methods to fight for social change.68 While the labels have changed, the fundamental purpose of the work remained the same. Political lawyering gave way to rebellious lawyering, community lawyering, and movement lawyering.69 These models of advocacy embrace different visions of advocacy that may vary in the emphasis placed on the law’s comparative advantage relative to other strategic methodologies and tools.70 But, they all acknowledge the bond that joins client, community, and lawyer together in a common enterprise: empowering those without power and fighting for justice and equality. The de-emphasis on strategic litigation brought real benefits. It encouraged lawyers to work as members of a team, and challenged lawyers to ensure that those marginalized by injustice played a central role both as the focus of the advocacy and as participants in the advocacy, a positive turn regardless of the motivation.71 This evolution came at a cost. What began as a tactical de-emphasis on litigation evolved into a philosophical bias against litigation as a social justice advocacy tool.72 Initially, social justice lawyers turned away from impact litigation because they feared that an increasingly conservative judiciary would use these cases as an opportunity to further roll back prior gains. However, with time, the reluctance to pursue litigation became less a reaction to circumstance and more a matter of principle. Some writers argued that litigation is a tool through which lawyers usurp the authority of already marginalized clients by setting their priorities for them.73 And, they claimed that litigation disempowers communities because of the unbalanced power dynamics between social justice lawyers and marginalized clients.74 An example is the dialogue around rebellious lawyering, one of the most prominent models for social change advocacy. Gerald López conceptualized rebellious lawyering as an advocacy model that would empower poor clients through grassroots, community-based advocacy that was facilitated by lawyers.75 Rebellious lawyering emphasizes concepts of community organization, mobilization, and “deprofessionalization.”76 It calls on lawyers to reflect on critical elements of the attorney-client relationship that may further oppress members of marginalized communities.77 Through rebellious lawyering, Professor López advances the belief that although lawyers should help solve problems facing the poor, lawyers are not the preeminent problem solvers in that relationship and should defer to clients and communities.78 Gerald López prefers that lawyers focus on “teaching self-help and lay lawyering” to empower communities to help themselves.79 Professor López espoused his positive vision of rebellious lawyering as an alternative to what he calls regnant lawyering.80 Professor López asserts that regnant lawyers are convinced that they need to be the primary and active leaders in their representation of poor people. Regnant lawyers find community education and empowerment to be of only marginal importance.81 The result is that the regnant lawyer dominates the attorney-client relationship, giving little voice to the needs or concerns of the client. Finally, Professor López also believes that regnant lawyers have little practical understanding of legal, political, and social structures.82 Rebellious lawyering raised important questions about the role litigation should play in social justice movements. Gerald Lopez was certainly skeptical that “legal technicians” could make a meaningful contribution83 and questioned whether lawyers turned to litigation because it was best for the client or because the lawyer wanted to play “hero.”84 All political lawyers should ask themselves these questions when considering impact litigation as part of integrated advocacy on behalf of marginalized communities.85 But, over time, commentators began to equate regnant lawyering with impact litigation.86 Some social justice advocates argued that impact litigation perpetuated racism because white lawyers used it as a tool to impose their views on communities of color.87 Others advanced images of litigators as outsiders who used poor communities as guinea pigs in their social justice experiments, warning that “practicing law in the community is not a tourist adventure and, therefore, we must eschew the routine of the autonomous, interloping advocate who dreams up cases in the home office and then tests them on the community.”88 Litigation, and systemic reform litigation in particular, became synonymous with regnant lawyering: an “enemy” of social justice and not a tool fit for people committed to fighting for enduring social change. Derrick Bell advanced one of the most prominent and influential critiques of litigation.89 Although he acknowledged the success of the first decade of school desegregation litigation, Professor Bell questioned the lack of lawyer accountability to marginalized communities. According to Professor Bell, NAACP lawyers continued to employ an advocacy strategy that focused on structural school desegregation, even while many members of the Black community preferred a strategy that would have focused on building quality, though segregated, neighborhood schools.90 He cautioned that social justice advocates failed to acknowledge growing conflicts between what they believed were the long-range goals for their clients and the client’s evolving interests and needs.91 In the end, many members of the impacted community were left feeling marginalized. Professor Bell also suggested that “civil rights lawyers, like their more candid poverty law colleagues, are making decisions, setting priorities, and undertaking responsibilities that should be determined by their clients and shaped by the community.”92 Certainly, many lawyers who use litigation as a tool for social change are regnant and paternalistic, but these qualities are not inherent in litigators working with marginalized communities.93 Social justice advocates should have a healthy skepticism about the ability of the law, standing alone, to achieve lasting social change.94 They should always engage in advocacy that moves the client from the margins to the center.95 But, advocates should also resist pressure to narrow the definition of what it means to be a great lawyer. The discussion of social justice advocacy far too often collapses the framework not only of political lawyering, but all advocacy on behalf of poor and marginalized individuals and communities, into one that largely rejects the important role that strategic litigation has played and can continue to play in the fight for social justice. The ubiquity of the anti-litigation narrative encourages progressive law students—and many clinical law professors—to dismiss litigation and its potential for challenging bias and discrimination. Many progressive law students are afraid to become the professionals they envisioned they would be.96 They do not want to become the discrimination tourist derided in the literature. In response to the critique of social justice litigation, there is a growing body of scholarship supporting the conclusion that litigation is a key strategy for protecting and expanding the rights of marginalized communities.97 This body of scholarship acknowledges that litigation has played a critical role in the struggle for justice and equality, and that it continues to be “an imperfect but indispensable strategy of social change.”98 Finally, these scholars examine social justice litigation in the context of the tradeoffs of different forms of activism, evaluating its potential in relation to available alternatives and revealing a new understanding of the link between law and social justice reform.99 The demonization of strategic litigation that persists in many progressive lawyering circles not only contributes to student ~~paralysis~~, it gives them a false sense of what it means to engage in systemic reform litigation on behalf of clients and the community. Many prominent critiques of impact litigation neither provide an accurate depiction of the potential of that litigation, nor educate students on how to apply principles of political lawyering to that litigation. Indeed, while Derrick Bell prominently critiqued the role of strategic litigation in social justice movements, he also believed that litigation can be an important means of calling attention to perceived injustice; more important, . . . litigation presents opportunities for improving the weak economic and political position which renders the black community vulnerable to the specific injustices the litigation is intended to correct. Litigation can and should serve lawyer and client, as a community-organizing tool, an educational forum, a means of obtaining data, a method of exercising political leverage, and a rallying point for public support.100 Law students should be taught that lawyers who engage in systemic reform litigation, just like any other lawyer, can and should work with and on behalf of those victimized by discrimination. Indeed, despite the one- dimensional picture often painted for law students, not all progressive lawyers believe that “self-help” should be the focus of lawyering on behalf of poor or marginalized communities.101 Moreover, despite the image of the “interloping advocate who dreams up cases in the home office and then tests them on the community,” not all progressive lawyers believe that it is inappropriate for lawyers to independently analyze social justice issues and develop ideas about ways to use the law to bring society closer to justice. Indeed, “it is artificially constricting to conceive of lawyers as exclusively or primarily problem-solvers. [Lawyers] are not only social mechanics who wait in [their] shops for people to come to [them] with problems to be fixed. [Lawyers] should sometimes create problems. [Lawyers] should sometimes deliver problems by translating people’s anger and hurt and insistence on justice into political as well as legal action.”102 Many great advocacy ideas bubble up from the community, but equally valid ideas can come from advocates who have been working with and for those communities (or are members of the community themselves). Progressive advocates must be prepared to provide legal assistance to clients even when those clients do not wish to be active participants in the advocacy. That is embracing the core meaning of client-centered lawyering. Rather than being taught to avoid litigation at all costs, progressive law students need to learn how they can partner with victims of discrimination and be accountable to those victims in the context of litigation. They need to learn the skills of collaborative leadership in law.103 Advocates should also be careful about advancing a one-size-fits-all model of advocacy,104 lumping everything together under the “social justice advocacy” moniker or work on behalf of the “poor and disadvantaged” and assuming that one advocacy approach will work to solve all problems. Sometimes using “social justice” to refer to all of the work being done on behalf of poor and marginalized communities is the right thing to do—it unifies all of those who are fighting injustice on varying fronts. But, it can be harmful when discussing what advocacy tools will be most effective. Given the many forms that discrimination takes and the many communities subject to discrimination, law professors should caution students to be suspicious about broad generalizations about what clients always need or do not need, and what lawyers always should or should not do. There is no universal theory about how to represent disadvantaged or marginalized people. What works in the fight for economic justice may not be the best strategy to achieving racial justice.105 And what may be appropriate to help one victim of racial discrimination may not work for another. There is room for all types of advocates and advocacy.106 All advocates can be a part of the circle of human concern.107 3. The Preferred Model: Individual Representation Representing individual clients in small, manageable cases where students retain primary control has long been the preferred vehicle for teaching students to effectively address their clients’ legal problems.108 But many clinical programs focused on representing individual clients are not providing opportunities for students to learn how to utilize the law effectively to challenge systemic discrimination. In addition to teaching foundational lawyering skills like client interviewing, counseling, and fact investigation, clinics should also provide opportunities to teach complex and multi- dimensional lawyering skills.109 As this Section demonstrates, the clinical community’s disproportionate focus on micro-lawyering skills may be hampering the ability of students to focus on the political and social functions of the law and the structural dimensions of the problems facing client communities.110 The founding goals of clinical legal education were to provide law students the opportunity to learn the skills necessary to practice law and provide quality legal services to the poor.111 These origins closely shaped the development of clinical pedagogy and its current emphasis on individual representation.112 Small cases allow law students to have the primary relationship with the client, manage the case from beginning to end, and analyze relatively straightforward legal issues—all core principles of clinical pedagogy.113 The reliance on small cases also provides students with the invaluable opportunity to reflect deeply on the choices advocates make in creating and maintaining lawyer-client relationships.114 In the early years of the clinical legal education movement, most clinical law professors came from legal services organizations and brought with them a preference for the individual client representation that dominated legal services practice.115 Clinical professors embody their learning objectives in their case selection116 and must prioritize some lawyering skills over others because there are limits to what can be learned in a single clinical course.117 In focusing on small cases, early clinicians understandably prioritized the skills they knew to be critical to their own work on behalf of poor individuals. Today, clinical professors come to teaching from a broader array of professional backgrounds, and unsurprisingly want to bring their experiences into the classroom. They should be encouraged to make clinic design choices and set educational goals for their students based on the skills and knowledge they know to be necessary for success in their own practice areas. To many, the approaches clinical professors adopted at the beginning of the clinical legal education movement are not the answers to the questions and challenges our students face today. An exclusive reliance on small cases, though they are extremely valuable teaching tools, fails many students because small cases offer limited opportunities to teach a broad array of lawyering skills, including the skills critical to challenging systemic injustice.118 Of course, small cases have value—for the client and student both. But, in the new normal, they are often not enough to carry the weight of change. “Social justice work is rarely easy, clean, or pretty.”119 It can be downright messy and clinics should not shield students from its messiness. Working on larger, more complex cases exposes students to more of the skills necessary to fight for structural change.120 They can learn to exercise intellectual autonomy and to integrate conceptual thinking in their advocacy.121 They teach students how to achieve client objectives while also advancing broader social justice goals. Finally, in complex cases where litigation is a viable option, students are exposed to fundamental questions such as what claims to assert, where to file, who to represent, and who to sue. Students cannot be practice ready without some exposure to these skills. Some clinical legal educators have questioned the traditional model of clinical education, arguing instead for engaging in work with a broader social justice impact.122 One basis for this argument, for example, is that “case- centered clinics are primarily accountable to students and law school administrators, rather than clients, and fail to serve political collectives.”123 In this conception, clinics prioritize student interests over community interests by accepting only those cases over which students will have full responsibility and reject more complex cases where the students’ limited skills would make that impossible. This is done even when the communities’ interests—and thus the cause of social justice—would be better served by the more complex cases.124 While this critique is framed in terms of benefits to students versus losses to social justice, there is indeed a loss to students as well. Clinical legal educators who are teaching the next generation of social and racial justice advocates should help students understand the current legal framework for equality, and develop the ability to utilize that framework creatively on behalf of their clients. But, students also have to learn to transcend and reimagine current institutional frames, to conceptualize avenues for relief, create new narratives, and pull together the building blocks of a new legal framework to establish rights that did not exist before. Indeed, many of the challenges facing America today require reimagining justice from the ground up. Future social justice advocates must have social vision—“vision-making work is fundamental to the activist strategies political lawyering inevitably embodies.”125 Charles Hamilton Houston not only taught his law students to conceive that separate can never be equal, he taught them how to develop a legal theory in support of that idea and then to develop an integrated advocacy strategy, including complex litigation, to give that theory legal effect. “The process of linking strategy to political vision always requires adaptation and a detailed understanding of particular contexts for its effectiveness.”126 Moreover, as students move from theory to legal reality, they have to understand the skills required to genuinely engage the community. Indeed, “it is no simple matter to reconcile commitment to both clients and a larger social vision or to navigate the boundary between the insider and outsider communities in which political lawyers work.”127 There are, of course, trade-offs involved in engaging clinical students in impact advocacy, both for the student and the teacher.128 Many clinical faculty have expressed concerns that systemic reform work and complex vocacy matters require too high a cost to core pedagogical goals.129 There is a sense that “big cases” may achieve important social justice goals, but use student tuition to finance political goals without attendant benefits to the students’ education.130 According to this line of critique, if the fundamental goal of clinical legal education is the education of students, clinical education needs to continue to focus on small cases that allow for complete student ownership, with a student seeing the case through from beginning to end.131 Many clinicians believe that complete student ownership from beginning to end is critical to an effective clinical experience, and that this level of student ownership is not possible in big cases.132 The problem with this argument is that giving clinic students sole control of a case from beginning to end is not the only way to maximize student learning. Close collaboration with clinical educators, fellow students, clients, and other collaborators offers rich opportunities for student learning. Working with those collaborators to evaluate a complex problem, consider whether a litigation strategy is appropriate, and implementing that strategy, is precisely the kind of experience students will need to master in political lawyering practice. If clinical programs want to ensure that social justice students develop the skills and values necessary to be responsible and effective lawyers before they graduate, students should have the opportunity to be exposed to advocacy models beyond individual client representation. Otherwise, clinics are missing an opportunity to teach students to embrace and engage in social justice work broadly. II. REFRAMING POLITICAL LAWYERING FOR THE 21ST CENTURY Modern social problems present new challenges for political lawyers. As such, political lawyers must evaluate the tools an earlier generation of political lawyers used to determine how to employ them in light of changed conditions. Social justice advocates have destabilized the dominant understanding of lawyering.133 Modern political lawyering must continue that process of destabilization, exploring alternatives to the way lawyers marshal social and economic capital, make strategic decisions, and transgress current structures and constraints.134 Political lawyering advocates should also question attempts to constrict the understanding of what lawyering tools can be employed in service to communities and in furtherance of justice. A. Expanding the Advocacy Perspective At the core of Derrick Bell’s critique of the latter stages of the campaign to desegregate public education is the divergence he saw between the interests of NAACP lawyers and those of certain segments of the Black community that evolved after the launch of the school desegregation campaign.135 In many ways, this divergence was the result of a failure to communicate. To effectively engage in the integrated advocacy central to political lawyering, those engaged in individual representation, strategic litigation, legislative advocacy, community organizing, public education, direct action, and other forms of advocacy must remain in constant conversation. They must also use their work to facilitate a constant dialogue between the community, courts, government agencies, and legislatures at the local, state, and national levels. As part of this ongoing conversation, political justice lawyers must endeavor to expand the perspectives of the public, judges, politicians, and government administrators beyond dated conceptions of justice. Powerful narratives can break through opposition and resistance, shaping the way society views equality and justice. In Goldberg v. Kelly,136 advocates disrupted the stock story of greedy welfare recipients trying to take advantage of a fair and responsive bureaucracy by telling “human stories” that introduced the Court “to the day-to-day realities of the lives of poor people—struggling to provide a bare minimum of basic necessities for themselves and their children, while confronting an inefficient, unpredictable, and often hostile welfare bureaucracy.”137 Today’s political justice lawyers must focus on changing legal rules, but also inspiring political action, educating the public, publicizing injustice, and shaping public debate. Developing the ability to craft legal and factual narratives that are not only respectful and true to the client’s or communities’ experiences and demands for justice, but that can also persuade and influence others in a variety of contexts, is a critically important skill.138 Political justice lawyering must also account for the changing economic dynamics within otherwise marginalized communities. Growing income inequality within communities of color mirrors the growing wealth gap within American society as a whole.139 Not only may the experience of race or gender discrimination, for example, differ for people of varying wealth, the advocacy strategies needed to engage those communities may be different as well, depending on the structural barriers to engagement created or exacerbated by economic inequality. Political justice lawyers must wrestle with the complicated economic dynamics within communities of color, remain mindful that widening economic inequality can impact collectivity, and authentically engage with the full breadth of those communities if their advocacy is to be effective. Modern political justice lawyering must also include strategies to support and harness the “disruptive power”140 of widespread youth-led movements, collective action, and protest. Many justice movements seek to harness disruption or provoke unrest to redistribute power or force reforms.141 While disruption through protest has been essential in bringing light and voice to modern social justice issues such as police brutality (through, for example, the Black Lives Matter movement) and economic inequality (through, for example, Occupy Wall Street), protests standing alone may not be enough to lead to structural reform or transformational change. Without a viable replacement to fill the void left by a disrupted system, a clear demand for meaningful change, and a plan for implementing that change, the disruptive power may never translate to justice. Finally, modern political justice lawyers must be able to integrate both positive and negative conceptions of equality into their advocacy. Many modern social justice problems are difficult or impossible to fully resolve through court orders.142 Moreover, courts have shown a growing reluctance to issue sweeping injunctive relief that leaves school systems or police departments under the management of courts or court-appointed special masters.143 While utilizing courts to prohibit or limit actions that infringe on individual rights, advocates should be able to articulate a positive vision of what stakeholders can or should do to better promote, protect, and respect those rights. In the context of police reform, for example, victory may take the form of a judicial finding that a police officer used excessive force or an award of money damages. However, even the broadest injunctive relief may struggle to translate into systemic reform—a positive conception of just and effective policing. B. Expanding the Lawyer’s Toolbox In order to effect systemic change, lawyers need to understand what levers are available to achieve that change, and when, where, and how to pull each lever. Political justice lawyers must be skilled at integrated advocacy, using individual and strategic litigation to establish and protect rights, traditional and social media engagement to shape and promote the narrative, community organizing to mobilize effected communities and their allies, and interdisciplinary collaborations to bring the work of other disciplines to bear on creating policies and practices to replace illegal and repressive practices. An effective political justice lawyer has many tools in her toolbox, and knows when and how to use each one. In addition to these tools, political lawyers must learn to break systemic problems into their smaller components; identify advocacy alternatives and evaluate the costs and benefits of each approach; and resolve instances in which an attorney’s own social justice values and vision collide. 1. Breaking Apart Systemic Issues Political justice lawyers must be able to break apart a systemic problem into manageable components. The complexity of social problems, can cause law students, and even experienced political lawyers, to become overwhelmed. In describing his work challenging United States military and economic interventions abroad, civil rights advocate and law professor Jules Lobel wrote of this process: “Our foreign-policy litigation became a sort of Sisyphean quest as we maneuvered through a hazy maze cluttered with gates. Each gate we unlocked led to yet another that blocked our path, with the elusive goal of judicial relief always shrouded in the twilight mist of the never-ending maze.”144 Pulling apart a larger, systemic problem into its smaller components can help elucidate options for advocacy. An instructive example is the use of excessive force by police officers against people of color. Every week seems to bring a new video featuring graphic police violence against Black men and women. Law students are frequently outraged by these incidents. But the sheer frequency of these videos and lack of repercussions for perpetrators overwhelm those students just as often. What can be done about a problem so big and so pervasive? To move toward justice, advocates must be able to break apart the forces that came together to lead to that moment: intentional discrimination, implicit bias, ineffective training, racial segregation, lack of economic opportunity, the over-policing of minority communities, and the failure to invest in non-criminal justice interventions that adequately respond to homelessness, mental illness, and drug addiction. None of these component problems are easily addressed, but breaking them apart is more manageable—and more realistic—than acting as though there is a single lever that will solve the problem. After identifying the component problems, advocates can select one and repeat the process of breaking down that problem until they get to a point of entry for their advocacy. 2. Identifying Advocacy Alternatives As discussed earlier, political justice lawyering embraces litigation, community organizing, interdisciplinary collaboration, legislative reform, public education, direct action, and other forms of advocacy to achieve social change. After parsing the underlying issues, lawyers need to identify what a lawyer can and should do on behalf of impacted communities and individuals, and this includes determining the most effective advocacy approach. Advocates must also strategize about what can be achieved in the short term versus the long term. The fight for justice is a marathon, not a sprint. Many law students experience frustration with advocacy because they expect immediate justice now. They have read the opinion in Brown v. Board of Education, but forget that the decision was the result of a decades-long advocacy strategy.145 Indeed, the decision itself was no magic wand, as the country continues to work to give full effect to the decision 70 years hence. Advocates cannot only fight for change they will see in their lifetime, they must also fight for the future.146 Change did not happen over night in Brown and lasting change cannot happen over night today. Small victories can be building blocks for systemic reform, and advocates must learn to see the benefit of short-term responsiveness as a component of long-term advocacy. Many lawyers subscribe to the American culture of success, with its uncompromising focus on immediate accomplishments and victories.147 However, those interested in social justice must adjust their expectations. Many pivotal civil rights victories were made possible by the seemingly hopeless cases that were brought, and lost, before them.148 In the fight for justice, “success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”149 Again, Professor Lobel’s words are instructive: “the current commitment of civil rights groups, women’s groups, and gay and lesbian groups to a legal discourse to legal activism to protect their rights stems in part from the willingness of activists in political and social movements in the nineteenth century to fight for rights, even when they realized the courts would be unsympathetic.”150 Professor Lobel also wrote about Helmuth James Von Moltke, who served as legal advisor to the German Armed Services until he was executed in 1945 by Nazis: “In battle after losing legal battle to protect the rights of Poles, to save Jews, and to oppose German troops’ war crimes, he made it clear that he struggled not just to win in the moment but to build a future.”151 3. Creating a Hierarchy of Values Advocates challenging complex social justice problems can find it difficult to identify the correct solution when one of their social justice values is in conflict with another. A simple example: a social justice lawyer’s demands for swift justice for the victim of police brutality may conflict with the lawyer’s belief in the officer’s fundamental right to due process and a fair trial. While social justice lawyers regularly face these dilemmas, law students are not often forced to struggle through them to resolution in real world scenarios—to make difficult decisions and manage the fallout from the choices they make in resolving the conflict. Engaging in complex cases can force students to work through conflicts, helping them to articulate and sharpen their beliefs and goals, forcing them to clearly define what justice means broadly and in the specific context presented. Lawyers advocating in the tradition of political lawyering anticipate the inevitable conflict between rights, and must seek to resolve these conflicts through a “hierarchy of values.”152 Moreover, in creating the hierarchy, the perspectives of those directly impacted and marginalized should be elevated “because it is in listening to and standing with the victims of injustice that the need for critical thinking and action become clear.”153 One articulation of a hierarchy of values asserts “people must be valued more than property. Human rights must be valued more than property rights. Minimum standards of living must be valued more than the privileged liberty of accumulated political, social and economic power. Finally, the goal of increasing the political, social, and economic power of those who are left out of the current arrangements must be valued more than the preservation of the existing order that created and maintains unjust privilege.”154 C. Rethinking the Role of the Clinical Law Professor: Moving From Expert to Colleague Law students can learn a new dimension of lawyering by watching their clinical law professor work through innovative social justice challenges alongside them, as colleagues. This is an opportunity not often presented in work on small cases where the clinical professor is so deeply steeped in the doctrine and process, the case is largely routine to her and she can predict what is to come and adjust supervision strategies accordingly.155 However, when engaged in political lawyering on complex and novel legal issues, both the student and the teacher may be on new ground that transforms the nature of the student-teacher relationship. A colleague often speaks about acknowledging the persona professors take on when they teach and how that persona embodies who they want to be in the classroom—essentially, whenever law professors teach they establish a character. The persona that a clinical professor adopts can have a profound effect on the students, because the character is the means by which the teacher subtly models for the student—without necessarily ever saying so— the professional the teacher holds herself to be and the student may yet become. In working on complex matters where the advocacy strategy is unclear, the clinical professor makes himself vulnerable by inviting students to witness his struggles as they work together to develop the most effective strategy. By making clear that he does not have all of the answers, partnering with his students to discover the answers, and sharing his own missteps along the way, a clinical law professor can reclaim opportunities to model how an experienced attorney acquires new knowledge and takes on new challenges that may be lost in smaller case representation.156 Clinical law faculty who wholeheartedly subscribe to the belief that professors fail to optimize student learning if students do not have primary control of a matter from beginning to end may view a decision to work in true partnership with students on a matter as a failure of clinical legal education. Indeed, this partnership model will inevitably impact student autonomy and ownership of the case.157 But, there is a unique value to a professor working with her student as a colleague and partner to navigate subject matter new to both student and professor.158 In this relationship, the professor can model how to exercise judgment and how to learn from practice: to independently learn new areas of law; to consult with outside colleagues, experts in the field, and community members without divulging confidential information; and to advise a client in the midst of ones own learning process.159 III. A Pedagogical Course Correction “If it offends your sense of justice, there’s a cause of action.” - Florence Roisman, Professor, Indiana University School of Law160 In response to the shifts in my students’ perspectives on racism and systemic discrimination, their reluctance to tackle systemic problems, their conditioned belief that strategic litigation should be a tool of last resort, and my own discomfort with reliance on small cases in my clinical teaching, I took a step back in my own practice. How could I better teach my students to be champions for justice even when they are overwhelmed by society’s injustice; to challenge the complex and systemic discrimination strangling minority communities, and to approach their work in the tradition of political lawyering. I reflected not only on my teaching, but also on my experiences as a civil rights litigator, to focus on what has helped me to continue doing the work despite the frustrations and difficulties. I realized I was spending too much time teaching my students foundational lawyering skills, and too little time focused on the broader array of skills I knew to be critical in the fight for racial justice. We regularly discussed systemic racism during my clinic seminars in order to place the students’ work on behalf of their clients within a larger context. But by relying on carefully curated small cases I was inadvertently desensitizing my students to a lawyer’s responsibility to challenge these systemic problems, and sending the message that the law operates independently from this background and context. I have an obligation to move beyond teaching my students to be “good soldiers for the status quo” to ensuring that the next generation is truly prepared to fight for justice.161 And, if my teaching methods are encouraging the reproduction of the status quo it is my obligation to develop new interventions.162 Jane Aiken’s work on “justice readiness” is instructive on this point. To graduate lawyers who better understand their role in advancing justice, Jane Aiken believes clinics should move beyond providing opportunities for students to have a social justice experience to promoting a desire and ability to do justice.163 She suggests creating disorienting moments by selecting cases where students have no outside authority on which to rely, requiring that they draw from their own knowledge base and values to develop a legal theory.164 Disorienting moments give students: experiences that surprise them because they did not expect to experience what they experienced. This can be as simple as learning that the maximum monthly welfare benefit for a family of four is about $350. Or they can read a [ ] Supreme Court case that upheld Charles Carlisle’s conviction because a wyer missed a deadline by one day even though the district court found there was insufficient evidence to prove his guilt. These facts are often disorienting. They require the student to step back and examine why they thought that the benefit amount would be so much more, or that innocence would always result in release. That is an amazing teaching moment. It is at this moment that we can ask students to examine their own privilege, how it has made them assume that the world operated differently, allowing them to be oblivious to the indignities and injustices that occur every day.165 Giving students an opportunity to “face the fact that they cannot rely on ‘the way things are’ and meet the needs of their clients” is a powerful approach to teaching and engaging students.166 But, complex problems call for larger and more sustained disorienting moments. Working with students on impact advocacy in the model of political lawyering provides a range of opportunities to immerse students in disorienting moments. A. Immersing Students in “Disorienting Moments”: Race, Poverty, and Pregnancy Today, I try to immerse my students in disorienting moments to make them justice ready and move them in the direction of political lawyering. My clinic docket has always included a small number of impact litigation matters. However, in the past these cases were carefully screened to ensure that they involved discrete legal issues and client groups. In addition, our representation always began after our outside co-counsel had already conducted an initial factual investigation, identified the core legal issues, and developed an overall advocacy strategy, freeing my students from these responsibilities. Now, my clinic takes on impact matters at earlier stages where the strategies are less clear and the legal questions are multifaceted and ill- defined. This mirrors the experiences of practicing social justice lawyers, who faced with an injustice, must discover the facts, identify the legal claims, develop strategy, cultivate allies, and ultimately determine what can be done—with the knowledge that “nothing” is not an option. This approach provides students with the space to wrestle with larger, systemic issues in a structured and supportive educational environment, taking on cases that seem difficult to resolve and working to bring some justice to that situation. They are also gaining experience in many of the fundamentals of political lawyering advocacy. Recently, my students began work on a new case. Several public and private hospitals in low-income New York City neighborhoods are drug testing pregnant women or new mothers without their knowledge or informed consent. This practice reflects a disturbing convergence between racial and economic disparities, and can have a profound impact on the lives of the poor women of color being tested at precisely the time when they are most in need of support. We began our work when a community organization reached out to the clinic and spoke to us about complaints that hospitals around New York City were regularly testing pregnant women—almost exclusively women of color—for drug use during prenatal check ups, during the chaos and stress of labor and delivery, or during post-delivery. The hospitals report positive test results to the City’s Administration for Children’s Services (“ACS”), which is responsible for protecting children from abuse and neglect, for further action.167 Most of the positive tests are for marijuana use. After a report is made, ACS commences an investigation to determine whether child abuse or neglect has taken place, and these investigations trigger inquiries into every aspect of a family’s life. They can lead to the institution of child neglect proceedings, and potentially to the temporary or permanent removal of children from the household. Even where that extreme result is avoided, an ACS investigation can open the door to the City’s continued, and potentially unwelcome, involvement in the lives of these families. These policies reflect deeply inequitable practices. Investigating a family after a positive drug test is not necessarily a bad thing. After all, ACS offers a number of supportive services that can help stabilize and strengthen vulnerable families. And of course, where children’s safety is at risk, removal may sometimes be the appropriate result. However, hospitals do not conduct regular drug tests of mothers in all New York City communities. Private hospitals in wealthy areas rarely test pregnant women or new mothers for drug misuse. In contrast, at hospitals serving poor women, drug testing is routine. Race and class should not determine whether such testing, and the consequences that result, take place. Investigating the New York City drug-testing program immersed the students in disorienting moments at every stage of their work. During our conversations, the students regularly expressed surprise and discomfort with the hospitals’ practices. They were disturbed that public hospitals— institutions on which poor women and women of color rely for something as essential as health care—would use these women’s pregnancy as a point of entry to control their lives.168 They struggled to explain how the simple act of seeking medical care from a hospital serving predominantly poor communities could deprive patients of the respect, privacy, and legal protections enjoyed by pregnant women in other parts of the City. And, they were shocked by the way institutions conditioned poor women to unquestioningly submit to authority.169 Many of the women did not know that they were drug tested until the hospital told them about the positive result and referred them to ACS. Still, these women were not surprised: that kind of disregard, marginalization, and lack of consent were a regular aspect of their lives as poor women of color. These women were more concerned about not upsetting ACS than they were about the drug testing. That so many of these women could be resigned to such a gross violation of their rights was entirely foreign to most of my students. B. Advocacy in the Face of Systemic Injustice Although the students are still in the early stages of their work, they have already engaged in many aspects of political justice lawyering. They approached their advocacy focused on the essence of political lawyering— enabling poor, pregnant women of color who enjoy little power or respect to claim and enjoy their rights, and altering the allocation of power from government agencies and institutions back into the hands of these women. They questioned whose interests these policies and practices were designed to serve, and have grounded their work in a vision of an alternative societal construct in which their clients and the community are respected and supported. The clinic students were given an opportunity to learn about social, legal, and administrative systems as they simultaneously explored opportunities to change those systems. The students worked to identify the short and long term goals of the impacted women as well the goals of the larger community, and to think strategically about the means best suited to accomplish these goals. And, importantly, while collaborating with partners from the community and legal advocacy organizations, the students always tried to keep these women centered in their advocacy. In breaking down the problem of drug testing poor women of color, the students worked through an issue that lives at the intersection of reproductive freedom, family law, racial justice, economic inequality, access to health care, and the war on drugs. In their factual investigation, which included interviews of impacted women, advocates, and hospital personnel, and the review of records obtained through Freedom of Information Law requests, the students began to break down this complex problem. They explored the disparate treatment of poor women and women of color by health care providers and government entities, implicit and explicit bias in healthcare, the disproportionate referral of women of color to ACS, the challenges of providing medical services to underserved communities, the meaning of informed consent, the diminished rights of people who rely on public services, and the criminalization of poverty. The students found that list almost as overwhelming as the initial problem itself, but identifying the components allowed the students to dig deeper and focus on possible avenues of challenge and advocacy. It was also critically important to make the invisible forces visible, even if the law currently does not provide a remedy. Working on this case also gave the students and me the opportunity to work through more nuanced applications of some of the lawyering concepts that were introduced in their smaller cases, including client-centered lawyering when working on behalf of the community; large-scale fact investigation; transferring their “social justice knowledge” to different contexts; crafting legal and factual narratives that are not only true to the communities’ experience, but can persuade and influence others; and how to develop an integrated advocacy plan. The students frequently asked whether we should even pursue the matter, questioning whether this work was client- centered when it was no longer the most pressing concern for many of the women we met. These doubts opened the door to many rich discussions: can we achieve meaningful social change if we only address immediate crises; can we progress on larger social justice issues without challenging their root causes; how do we recognize and address assumptions advocates may have about what is best for a client; and how can we keep past, present, and future victims centered in our advocacy? The work on the case also forced the clinic students to work through their own understanding of a hierarchy of values. They struggled with their desire to support these community hospitals and the public servants who work there under difficult circumstances on the one hand, and their desire to protect women, potentially through litigation, from discriminatory practices. They also struggled to reconcile their belief that hospitals should take all reasonable steps to protect the health and safety of children, as well as their emotional reaction to pregnant mothers putting their unborn children in harms way by using illegal drugs against the privacy rights of poor and marginalized women. They were forced to pause and think deeply about what justice would look like for those mothers, children, and communities. CONCLUSION America continues to grapple with systemic injustice. Political justice lawyering offers powerful strategies to advance the cause of justice—through integrated advocacy comprising the full array of tools available to social justice advocates, including strategic systemic reform litigation. It is the job of legal education to prepare law students to become effective lawyers. For those aspiring to social justice that should include training students to utilize the tools of political justice lawyers. Clinical legal offers a tremendous opportunity to teach the next generation of racial and social justice advocates how to advance equality in the face of structural inequality, if only it will embrace the full array of available tools to do so. In doing so, clinical legal education will not only prepare lawyers to enact social change, they can inspire lawyers overwhelmed by the challenges of change. In order to provide transformative learning experiences, clinical education must supplement traditional pedagogical tools and should consider political lawyering’s potential to empower law students and communities.

#### In round discussions can’t change broader structures – cmon – but if they can our legalism offense turns theirs

### Extinction

#### Apocalyptic images challenge dominant power structures – they contest the implausibility of inequitable structures producing catastrophe and generate imagination of futures of social justice outside of current narratives

Jessica Hurley 17, Assistant Professor in the Humanities at the University of Chicago, “Impossible Futures: Fictions of Risk in the Longue Durée”, Duke University Press, <https://read.dukeupress.edu/american-literature/article/89/4/761/132823/Impossible-Futures-Fictions-of-Risk-in-the-Longue>

* Squo power structures (i.e. what the K criticizes) paint themselves as stable/inevitable to project their power and maintain dominance
* Questioning that stability thru extinction narratives questions squo world orders bc it calls into ques the idea of squo world stability which allows us to envision alternative worlds/future i.e. one where it fails and causes extinction
* Justifies extinction focus and preventing extinction in the name of changing those squo structures

If contemporary ecocriticism has a shared premise about environmental risk it is that genre is the key to both perceiving and, possibly, correcting ecological crisis. Frederick Buell’s 2003 From Apocalypse to Way of Life: Environmental Crisis in the American Century has established one of the most central oppositions of this paradigm. As his title suggests, Buell tells the story of a discourse that began in the apocalyptic mode in the 1960s and 70s, when discussions of “the immanent end of nature” most commonly took the form of “prophecy, revelation, climax, and extermination” before turning away from apocalypse when the prophesied ends failed to arrive (112, 78). Buell offers his suggestion for the appropriate literary mode for life lived within a crisis that is both unceasing and inescapable: new voices, “if wise enough….will abandon apocalypse for a sadder realism that looks closely at social and environmental changes in process and recognizes crisis as a place where people dwell” (202-3). In a world of threat, Buell demands a realism that might help us see risks more clearly and aid our survival.¶ Buell’s argument has become a broadly held view in contemporary risk theory and ecocriticism, overlapping fields in the social sciences and humanities that address the foundational question of second modernity: “how do you live when you are at such risk?” (Woodward 2009, 205).1 Such an assertion, however, assumes both that realism is a neutral descriptive practice and that apocalypse is not something that is happening now in places that we might not see, or cannot hear. This essay argues for the continuing importance of apocalyptic narrative forms in representations of environmental risk to disrupt conservative realisms that maintain the statusquo. Taking the ecological disaster of nuclear waste as my case study, I examine two fictional treatments of nuclear waste dumps that create different temporal structures within which the colonial history of the United States plays out. The first, a set of Department of Energy documents that use statistical modeling and fictional description to predict a set of realistic futures for the site of the Waste Isolation Pilot Plant in New Mexico (1991), creates a present that is fully knowable and a future that is fully predictable. Such an approach, I suggest, perpetuates the state logics of implausibility that have long undergirded settler colonialism in the United States

. In contrast, Leslie Marmon Silko’s contemporaneous novel Almanac of the Dead (1991) uses its apocalyptic form to deconstruct the claims to verisimilitude that undergird state realism, transforming nuclear waste into a prophecy of the end of the United States rather than a means for imagining its continuation. In Almanac of the Dead, the presence of nuclear waste introjects a deep-time perspective into contemporary America, transforming the present into a speculative space where environmental catastrophe produces not only unevenly distributed damage but also revolutionary forms of social justice that insist on a truth that probability modeling cannot contain: that the future will be unimaginably different from the present

, while the present, too, might yet be utterly different from the real that we think we know.¶ Nuclear waste is rarely treated in ecocriticism or risk theory, for several reasons: it is too manmade to be ecological; its catastrophes are ongoing, intentionally produced situations rather than sudden disasters; and it does not support the narrative that subtends ecocritical accounts of risk perception in which the nuclear threat gives rise to an awareness of other kinds of threat before reaching the end of its relevance at the end of the Cold War.2 In what follows, I argue that the failure of nuclear waste to fit into the critical frames created by ecocriticism and risk theory to date offers an opportunity to expand those frames and overcome some of their limitations, especially the impulse towards a paranoid, totalizing realism that Peter van Wyck (2005) has described as central to ecocriticism in the risk society. Nuclear waste has durational forms that dwarf the human. It therefore dwells less in the economy of risk as it is currently conceptualized and more in the blown-out realm of deep time. Inhabiting the temporal scale that has recently been christened the Anthropocene, the geological era defined by the impact of human activities on the world’s geology and climate, nuclear waste unsettles any attempt at realist description, unveiling the limits of human imagination at every turn.3 By analyzing risk society through a heuristic of nuclear waste, this essay offers a critique of nuclear colonialism and environmental racism. At the same time, it shows how the apocalyptic mode in deep time allows narratives of environmental harm and danger to move beyond the paranoid logic of risk. In the world of deep time, all that might come to pass will come to pass, sooner or later. The endless maybes of risk become certainties. The impossibilities of our own deaths and the deaths of everything else will come. But so too will other impossibilities: talking macaws and alien visitors; the end of the colonial occupation of North America, perhaps, or a sudden human determination to let the world live. The end of capitalism may yet become more thinkable than the end of the world. Just wait long enough. Stranger things will happen.¶

# 2NR

### Counterinterp

#### CI: # condo is good – solves their offense because it sets a limit on the number of advocacies which means they don’t have to beat infinite condo and have time to clash *– force them to prove that there’s a difference between 1 and 2 condo but not 2 and 3*

#### CI: the neg may read conditional advocacies

#### 1] Education:

#### A) Experimentation – lack of condo means negs never experiment with new args, which results in stale debates where each neg reads the same position every round

#### B) Strategic thinking – condo forces the 1AR to make time allocation decisions and the 2N to sort through more layers when deciding where to collapse

#### C) Decision-making – we take actions by considering what other actions we could take and sorting through the benefits of various options – condo makes the process of testing shallow with fewer decisions

#### 2] Fairness: affs choose the advocacy and have infinite prep for frontlines and hell 1AR’s – negs need to prep every aff but affs can go deep on 1 or 2 affs – condo balances this by allowing negs many option

No shfiuting – read indpednent voters

Yes- provbing tyhing bad doesn’t prove affd is good