# 1NC vs Ayala AM

## OFF

### 1NC - OFF

T-SoKo

#### Interpretation: the aff cannot specify a state.

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

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

According to the rules and regulations view, on the other hand, generic sentences do not get their truth or falsity as a consequence of properties of individual instances. Instead, generic sentences are evaluated with regard to rules and regulations, which are basic, irreducible entities in the world. Each generic sentence denotes a rule; if the rule is in effect, in some sense (different theories suggest different characterizations of what it means for a rule to be in effect), the sentence is true,

#### That outweighs—only our evidence speaks to how bare plurals are interpreted in the context of normative statements like the resolution. This means throw out aff counter-interpretations that are purely descriptive

#### Violation—they specified [South Korea]

#### Vote neg for predictable limits—specifying a type of appropriation offers a huge explosion in the topic since they get permutations of hundreds of states. Generic pics are jettisoned when the aff specifies a state that we don’t have specific ev to. Limits explodes neg prep burden and draws un-reciprocal lines of debate, where the aff is always ahead, turns their pragmatics offense.

Independently, new affs are a voting issue --- SS in doc

1. Clash --- 4 minutes of prep is not enough to put together a coherent 1nc or update generics—30 minutes is necessary to learn a little about the affirmative and piece together what 1nc positions apply and cut and research their applications to the affirmative
2. Research incentives—plan text disclosure discourages cheap shot affs. If the aff isn't inherent or easily defeated by 20 minutes of research, it should lose—this will answer the 1ar's claim about innovation—with 30 minutes of prep, there's still an incentive to find a new strategic, well justified aff, but no incentive to cut a horrible, incoherent aff that the neg can't check against the broader literature

Graphical user interface, text, application, chat or text message

Description automatically generated

### 1NC - OFF

Security K

#### The 1AC’s crisis-driven politics are driven by a fundamental fear of the other – that results in *extinction* through error-replication and makes their impacts inevitable - our alternative is to interrogate the epistemological failures of the 1AC.

*\*\*\* we’ll only go for links from the 1AC and won’t cross apply links from other flows*

-war impacts – dominant IR securitizes populations that are deemed “at-risk” for starting conflicts

-technical rationality – 1AC posits surface level solutions which always fail and reproduce bad mindsets

-environmental security – technical approaches occlude structural origins like consumption patterns

-economic security – econ crises are structural and systemic – policies can’t solve

-specific links: terrorism, climate change, environment general, resource wars, econ, threat con/conflict

-impact – civilizational overshoot – ecological and economic crises that only new forms of IR can solve

-turns the aff – orthodox methods in IR are incapable of solvency and prone to error-replication

Ahmed 12 (Nafeez Mosaddeq, Executive Director of the Institute for Policy Research and Development (IPRD), an independent think tank focused on the study of violent conflict, he has taught at the Department of International Relations, University of Sussex, "The international relations of crisis and the crisis of international relations: from the securitisation of scarcity to the militarisation of society" Global Change, Peace & Security Volume 23, Issue 3, 2011 Taylor Francis)

While recommendations to **shift our frame of orientation** away from conventional **state-centrism** toward a **'human security' approach** are valid, this cannot be achieved without confronting the **deeper theoretical assumptions** underlying **conventional approaches to 'non-traditional' security issues**.106 By occluding the **structural origin** and **systemic dynamic** of global **ecological, energy and economic crises**, orthodox approaches are **incapable of transforming them**. Coupled with their excessive state-centrism, this means they operate largely at the level of **'surface' impacts** of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international **terrorism, violent conflict and population movements**. Global crises end up fuelling the **projection of risk onto social networks**, **groups and countries** that cross the geopolitical fault-lines of these 'surface' impacts - **which happen to intersect largely with Muslim communities**. Hence, regions particularly vulnerable to **climate change** impacts, containing large repositories of hydrocarbon **energy resources**, or subject to demographic transformations in the context of rising population pressures, have become the **focus of state security** planning in the context of counter-terrorism operations abroad. The intensifying problematisation and **externalisation of Muslim-**majority regions and populations by **Western security agencies - as a discourse** - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an **epistemological failure** to **interrogate the systemic causes of this acceleration** in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question. As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it **fundamentally undermines the idea** of a symbiotic **link between natural resources and conflict** per se. **Neither 'resource shortages' nor 'resource abundance'** (in ecological, energy, food and monetary terms) **necessitate conflict** by themselves. There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological **strictures of resource exploitation, consumption and distribution** between different social groups and classes. **Overlooking the systematic causes** of social crisis leads to a heightened tendency to **problematise its symptoms**, in the forms of challenges from particular social groups. This can lead to **externalisation of those groups**, **and** the **legitimisation of violence towards them**. Ultimately, this systems approach to global crises strongly suggests that conventional **policy 'reform' is woefully inadequate**. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, **industrial civilisation in its current form is unsustainable**. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation. Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) **translate the social science implications** of this research in terms of the embeddedness of human social systems in natural systems. Hence, **lacking capacity for epistemological self-reflection** and inhibiting the transformative responses urgently required, **they reify and normalise mass violence against diverse 'Others'**, newly **constructed as traditional security threats** enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to **ecological, energy and economic catastrophe**. Such an outcome, of course, is **not inevitable**, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could **inform more sober, effective, and joined-up policy-making on these issues.**

#### North Korean apocalyptic threat discourse utilizes dichotomies to serve the American hegemonic project – the aff’s representations are militaristic attempts to stifle political dissent and exert coercive control over the orient

Cunningham 13 (Finian Cunningham, expert in international affairs specializing in the Middle East, former journalist expelled from Bahrain due to his revealing of human rights violations committed by the Western-backed regime, 4-1-13, “US Protection Racket Root of Korea Conflict,” http://nsnbc.me/2013/04/01/us-protection-racket-root-of-korea-conflict/)

**The conflict emanates from** Washington **and is perpetuated by Washington. Why? To justify** what would otherwise be seen as simply outrageous US **militarism in the Asia Pacific** hemisphere, and in particular a criminally aggressive agenda **towards** the main geopolitical targets of Washington – **China and Russia**. **Korea’s conflict is** not primarily about North and South “enemy states”. It **is**, as it has been for the past 68 years since the end of World War II, **about Washington using** military **force to criminally assert its hegemony** on the global stage. But you wouldn’t know this from a casual reading of the Western news media. No, **we are told** over and over again that **the US is “protecting” South Korea** and its other Asian allies. The military presence of the US is “serving” as a “deterrent” to aggression **from a “sinister” North** Korea. In this depiction, **the US is the good guy**, while North Korea is the menacing reprobate that is a scourge on everybody’s well-being and security. **Kim Jong-un is** the embodiment of the Axis of **Evil**. That so-called “quality” news media such as the BBC, New York Times and Guardian can get away with seriously presenting this situation in terms portraying the US as a benevolent force is an astounding feat of reality inversion and brainwashed mind control. The irony is that such **media** implicitly **mock North Korea as a** Stalinist **“Big Brother” state**, where critical thought and expression are forbidden. **Yet, these media display the** very **same habit** of mental conformity that they disparage North Korea for. As noted above, the only way of properly interpreting the recent weeks of threat and counter-threat of all-out war in Korea is to recall scenes from the classic Mafia movie, The Godfather. You know the drill. The mobster goes around the neighborhood demanding loyalty, respect and tributes “for protection”. If the residents don’t conform to the racket, then the boss arranges self-fulfilling violence to rain down on those who dare to reject his magnanimous “protection”. The exact same arrangement applies in Korea under the tutelage of the US. The Peninsula was unilaterally partitioned in 1945 by Washington into North and South statelets because the US could not abide the fact that the Korean population at that time was strongly anti-imperialist and yearning for socialist democracy. That egalitarian sentiment helped the Koreans resist the occupying Japanese imperialists prior to and during World War II. Tellingly, in order to assert its hegemony over Korea and the Asia Pacific, the US worked the neighborhood over assiduously in order to defeat the popular movement for independence and democracy that the Korean people exhibited so boldly. Washington achieved this by installing pro-Japanese collaborators as the rulers of newly formed South Korea. Think about that one. **The US fought a war allegedly to defeat fascism** and imperialism, **only to** immediately collude with the same political forces to **defeat Korean democracy**. The **dropping** of **the atomic bombs** by Washington on Hiroshima and Nagasaki **was part and parcel of American efforts to demarcate** a postwar **hegemony in the Asia Pacific** to the Soviet Union and China – and **this is why Korea was** also **fractured** into two alien states that were then precipitated into war between 1950-53. **That war – in which a third of the northern Korean population were exterminated by American** indiscriminate carpet-bombing and **napalm** incineration – **has never** officially **ended**. The armistice signed in 1953 under Washington’s dictate is technically only a ceasefire. For decades, North Korea’s demand for a full peace treaty has been repeatedly rejected by Washington and its South Korean client state. In other words, Washington has retained the implicit prerogative to resume its aerial bombardment of the North Korean population at any time it chooses. That constitutes a constant threat, or a policy of state terrorism by Washington. The threat from the US towards the Korean population has and continues to include nuclear annihilation. During the Korean War, the US air force would regularly fly nuclear-capable B-52 bombers over the Peninsula. People on the ground would recognize the aircraft, but they did not know what the operational intent was. Can you imagine the terrorism that this conveyed? – barely five years after the US vaporized the civilian populations of Hiroshima and Nagasaki and at the same time that US military were compelling Koreans to live in caves as the only way of escaping mass destruction from conventional bombing. This same **thuggish behaviour** by the US government **is consistent with** its **authorization** during this past week **for the flying of** nuclear-capable B-2 and B-52 **bombers over the** Korean **Peninsula**. The dropping of “inert bombs” by these aerial monsters has to be seen as a heinous calculation in Washington aimed at heightening the terrorism. Yet, absurdly, the Western propaganda organs, otherwise called news, portray this American state terrorism as “protection”. The New York Times, for example, quoted one so-called “expert” as explaining North Korea’s response to the latest American provocation by saying: “The North Korean populace has to be regularly reminded that their country is surrounded by scheming enemies. Otherwise, they might start asking politically dangerous questions.” The laugh about this brain-washed expert thinking, and the New York Times promoting it, is that the people of Korea are indeed surrounded by a scheming enemy – the US – and if the wider international public and media were to start thinking about that fact then there would be “politically dangerous questions” such as: what gives the US the right to conduct annual military “war games” off and on the Korean Peninsula for the past six decades, including the deployment of nuclear annihilation? The people of Korea, North and South, deserve and desire peace. Despite the antagonism and belligerence highlighted in the Western propaganda media, **the majority** of people of North and South Korea **have** in fact **no wish for war**. The consensus among ordinary Koreans is for peace and a democratic resolution to decades of conflict imposed on their homeland from outside. But they won’t obtain that reasonable condition as long as Washington continues to run its “protection racket”. And, unfortunately, the American government will not, cannot stop its criminal behaviour – because **domination, aggression and terrorism are the hallmarks of Washington**’s Mafia regime.

#### The discourse of proliferation fears creates a racialized division between those who are and are not fit to have nuclear weapons – that ensures a politics of exclusion and xenophobia

Gusterson 9 (Massachusetts Institute of Technology, 1999, Nuclear Weapons and the Other in the Western Imagination, Cultural Anthropology 14(1):111-143. American Anthropological Association)

According to the literature on risk in anthropology, shared **fears** often **reveal** as much about the **identities** and solidarities of the fearful as about the actual dangers that are feared (Douglas and Wildavsky 1982; Lindenbaum 1974). The **immoderate reactions** in the West **to** the **nuclear tests** conducted **by India and Pakistan**, and to Iraq's nuclear weapons program earlier, **are examples of an entrenched discourse** on nuclear proliferation that has played an important role in **structuring the Third World**, and our relation to it, in the Western imagination. This discourse, dividing the world into nations that can be trusted with nuclear weapons and those that cannot, dates back, at least, to the Non-Proliferation Treaty of 1970. The Non-Proliferation Treaty embodied a bargain between the five coun- tries that had nuclear weapons in 1970 and those countries that did not. Accord- ing to the bargain, the five official nuclear states (the United States, the Soviet 3 Union, the United Kingdom, France, and China) promised to assist other signatories to the treaty in acquiring nuclear energy technology as long as they did not use that technology to produce nuclear weapons, submitting to international in- spections when necessary to prove their compliance. Further, in Article 6 of the treaty, the five nuclear powers agreed to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament" (Blacker and Duffy 1976:395). One hundred eighty-seven countries have signed the treaty, but Israel, India, and Pakistan have refused, saying it enshrines a system of global "nuclear apartheid." Although the Non-Proliferation Treaty divided the countries of the world into nuclear and nonnuclear by means of a purely temporal metric —designating only those who had tested nuclear weapons by 1970 as nuclear powers—**the treaty** has become the legal anchor for a global nuclear **regime** that **is** increasingly **legitimated** in Western public discourse **in racialized terms**. In view of recent developments in global politics—the collapse of the Soviet threat and the recent war against Iraq, a nuclear-threshold nation in the Third World—the importance of this discourse in organizing Western geopolitical understandings is only growing. **It has become a**n increasingly important **way of legitimating** U.S. **military programs** in the post-Cold War world **since the** early 19**90s**, when U.S. military leaders introduced the term rogue states into the American lexicon of fear, identifying a new source of danger just as the Soviet threat was declining (Klare 1995). Thus in Western discourse nuclear weapons are represented so that "theirs" are a problem whereas "ours" are not. During the Cold War the **Western discourse** on the dangers of "nuclear proliferation" **defined the term** in such a way as **to sever** the two senses of the word proliferation. This usage split off the "**vertical**" proliferation of the **superpower arsenals** (the development of new and improved weapons designs and the numerical expansion of the stockpiles) from the "horizontal" proliferation of nuclear weapons to other countries, presenting only the latter as the "proliferation problem." Following the end of the Cold War, the American and Russian arsenals are being cut to a few thousand weapons on each side. However, the United States and Russia have turned back appeals from various nonaligned nations, especially India, for the nuclear powers to open discussions on a global convention abolishing nuclear weapons. Article 6 of the Non-Proliferation Treaty notwithstanding, the Clinton administration has declared that nuclear weapons will play a role in the defense of the United States for the indefinite future. Meanwhile, in a controversial move, the Clinton administration has broken with the policy of previous administrations in basi- cally formalizing a policy of using nuclear weapons against nonnuclear states to deter chemical and biological weapons (Panofsky 1998; Sloyan 1998). **The dominant discourse** that **stabilizes** this system of **nuclear apartheid** in Western ideology is a specialized variant **within** a **broader** system of **colonial** and postcolonial **discourse** that takes as its essentialist premise a profound Otherness separating Third World from Western countries. This inscription of Third World (especially Asian and Middle Eastern) nations as ineradicably different from our own has, in a different context, been labeled "Orientalism" by Edward Said (1978). Said argues that orientalist discourse constructs the world in terms of a series of binary oppositions that produce the Orient as the mirror image of the West: where "we" are rational and disciplined, "**they" are impulsive and emotional;** where "**we" are modern and flexible, "they" are slaves to ancient passions** and routines; where "**we" are honest and compassionate**, "they" are treacherous and uncultivated. While the blatantly racist orientalism of the high colonial period has softened, more subtle orientalist ideologies endure in contemporary politics. They can be found, as Akhil Gupta (1998) has argued, in discourses of economic development that represent Third World nations as child nations lagging behind Western nations in a uniform cycle of development or, as Lutz and Collins (1993) suggest, in the imagery of popular magazines, such as National Geographic. I want to suggest here that another variant of contemporary orientalist ideology is also to be found in U.S. national security discourse. Following Anthony Giddens (1979), I define ideology as a way of con- structing political ideas, institutions, and behavior which (1) makes the political structures and institutions created by dominant social groups, classes, and na- tions appear to be naturally given and inescapable rather than socially con- structed; (2) presents the interests of elites as if they were universally shared; (3) obscures the connections between different social and political antagonisms so as to inhibit massive, binary confrontations (i.e., revolutionary situations); and (4) legitimates domination. The Western **discourse on** nuclear **prolif**eration **is ideological** in all four of these senses: (1) it makes the simultaneous ownership of nuclear weapons by the major powers and the absence of nuclear weapons in Third World countries seem natural and reasonable while problematizing at- tempts by such countries as India, Pakistan, and Iraq to acquire these weapons; (2) **it presents** the **security needs of** the **established nuclear powers as if they were everybody's**; (3) **it effaces** the continuity between **Third World** countries' nuclear **deprivation** and other systematic patterns of deprivation in the underde- veloped world in order to inhibit a massive north-south confrontation; and (4) it legitimates the nuclear monopoly of the recognized nuclear powers.

#### That’s best—critical evaluation must come before policy and conceptual framing has greater effect than specific action

RobertBruce 96, Associate Professor in Social Science – Curtin University and Graeme Cheeseman, Senior Lecturer – University of New South Wales, Discourses of Danger and Dread Frontiers, p. 5-9

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of professional security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defence and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluation of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s identity are both required and essential if Australia’s thinking on defence and security is to be invigorated. This is not a conventionalpolicy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is in itself a considerable **part of the problem** to be analysed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defence and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom or remain outside the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the **policy debate** the critics need to reframe the basic terms of reference. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’.15 The demand, tacit or otherwise, that the policy-maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies which, during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because there were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it meant that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defence and security. This book also questions the distinctions between policy practice and academic theory that inform conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defence and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognise, no matter how uncomfortable it feels, that what is involved in theory and practice is **not** the ability **to identify a replacement** for failed models, but a realisation that **t**erms and concepts – state sovereignty, balance of power, security**,** and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policy-makers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much of interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find **no single, fully formed panacea** for the world’s ills in general, or Australia’s security in particular. There are none. Every chapter, however, in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defence and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defence practice. Others (chapters 3, 4, 5, 6 and 8) seek to alert policy-makers, academics and students to alternative theoretical possibilities which might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought processes of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt **(**in place of confident certainty**)** is a necessary prelude to a genuine search for alternative policies. **First** comes an awareness of the need for new perspectives, **then** specific policies may follow. As Jim George argues in the following chapter, we need to look not so much at contending policies as they are made for us but at challenging ‘the discursive process which gives [favoured interpretations of “reality”**]** their meaning and which direct [Australia’s] policy/analytical/military responses’. This process is not restricted to the small, official defence and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defence and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as is revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defence and security studies. The chapters graphically illustrate how Australia’s public policies on defence and security are informed, underpinned and legitimised by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisors are unaware of broader intellectual debates, or resistant to them, or choose not to understand them, and why?

### 1NC - OFF

ICJ CP

#### The [Republic of Korea] ought to request that the International Court of Justice issue an advisory opinion on whether the Republci of Korea should ban commercial space] through a coalition of the most heavily burdened nations.

#### The [Republic of Korea] should ask that the case take priority, and will not enact [a ban on commercial space] unless the ICJ finds [commercial space] to be transboundary issue requiring action.

#### Advisory opinions from ICJ are necessary to clarify and develop international space law and they say yes

Simpson and Johnson 17 [Michael Simpson, International Space University · Space Policy and Law; Business and Management, Chris Johnson is the Space Law Advisor at the Secure World Foundation, a non-governmental organization (NGO) focused on the sustainable uses of outer space. Christopher does research, writes, and speaks about international and national space law with a special focus on peaceful uses of outer space, emerging governance challenges with non-traditional space activities, and identifying and characterizing deficiencies in existing space law., September 2017, Lacunae and Silence in International Space Law – A Hypothetical Advisory Opinion from the International Court of Justice, ResearchGate, https://www.researchgate.net/publication/320596144\_Lacunae\_and\_Silence\_in\_International\_Space\_Law\_-\_A\_Hypothetical\_Advisory\_Opinion\_from\_the\_International\_Court\_of\_Justice 12-16-2021] rohan

* lacunae = situation where there is no applicable law
* non liquet = no answer from governing system

Since international space law has developed for at least 60 years in an environment devoid of judicial opinions on live controversies, it lacks the judicial contribution to clarification and elaboration of terms and principles normally enjoyed by a body of law. For this reason, advisory opinions may be particularly useful in this area. The mechanism for seizing the Court also appears to be favorably developed. In the nuclear weapons case, the ICJ turned down a 1993 request from the World Meteorological Organization on the grounds that WMO, acting ultra vires lacked standing. Only when the UN General Assembly later made the request in its own name did the Court take up the question.

Since many of the questions amenable to illumination through advisory opinions are within the remit of the UN Committee for the Peaceful Uses of Outer Space (UNCOPUOS), which itself reports through Fourth Committee to the General Assembly, the procedural pathway to a UNGA request is both established and clear. Equally as helpful is that UNCOPUOS operates by consensus. Thus, early requests for clarification, could easily establish that the necessary political will to seek increased clarity was present and permit to begin with less controversial concepts. Once the efficacy of advisory opinions to clarify elements of space law is established, the General Assembly could possibly decide to forward more challenging issues even where consensus in COPUOS could not be expected.

III. NON-LIQUET AT THE ICJ.

It is a general principle of law at both the national and international level (indeed inherited from ancient Roman law) that when asked to deliver a judgement, a court knows the law (Iura novit curia). So it should seem as an unexpected and rare surprise when a court does not, indeed, know the law. In the Nuclear Weapons advisory opinion, the Court considered the existing law applicable to the threat or use of nuclear weapons, and their treatment under the various sources and bodies of law. The Court was asked to consider “is the threat or use of nuclear weapons in any circumstances permitted under international law?” However, the Court slightly rephrased that question merely to “determine the legality or illegality of the threat or use of nuclear weapons.”11 In seeking an answer, the Court looked to custom and to treaties, and looking to a diverse field of special regimes of international law, including the law of armed conflict (LOAC) a.k.a. International Humanitarian Law (IHL) (including jus ad bellum and jus in bellow), environmental law, and human rights law. However, the law, as a system and as a whole, was weighed and found wanting. The Court concluded:

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Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports (1996) p. 226, 238 para.

97. Accordingly, in view of the present state of international law viewed as a whole, as examined above by the Court, and of the elements of fact at its disposal, the Court is led to observe that it cannot reach a definitive conclusion as to the legality or illegality of the use of nuclear weapons by a State in such circumstance of self-defense, in which its very survival would be at stake.

Non liquet, meaning, it is not clear, is where a court finds the law insufficient, and does not permit a conclusion one way or the other regarding the issue it is presented with.

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IV. SPACE LAW, LACUNAE, AND NON-LIQUET

The idea that gaps in the law or uncertainty with its provisions can render judicial decisions impossible, difficult, or unwise is at least as old as Roman law. As such the concepts of lacunae and non liquet still bear the Latin names that would have been familiar to lawyers and legal scholars throughout the Roman Empire. As explained by Mark Bogdansky, non liquet can be extended to cover both the case where no legal rule can be found that applies to a case under consideration and to the case where lack of clarity in the facts or in a principle of law makes it impossible to discern clearly the implications of that principle in light of the facts presented. Bogdansky refers to the former situation as ontological non liquet and to the latter as epistemological. We will use lacunae to refer to apparent gaps in international space law and will confine our use of “non liquet” to situations where a principle has been articulated but is not clear.

Definitions become extremely important in discussing the impact of lacunae and non liquet on international space law. Note for example the list of lacunae in José Monserrat Filho’s excellent paper, “Space Law In The Light Of Bobbio's Theory Of Legal Ordering,” IAC-12.E7. 5. 6.

1. Definition of “space object”, “space debris”, “space activities”, “space launching”;

2. Binding “Space Debris Mitigation Guidelines”;

3. Prohibition of all kind of weapons in Earth orbits;

4. Definition and delimitation of the outer space;

5. Regulation of commercialization of space activities;

6. Environmental damage in Liability Convention;

7. Industrial exploitation of lunar natural resources;

8. Remote sensing activities in the XXI century;

9. Satellite data as evidence in criminal proceedings;

10. The use of nuclear power sources in space;

11. The human presence in space.

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While items 2, 3, 6, and 11 fit clearly into our definition of lacunae, the others represent cases where legal principles have been articulated, but are subject to substantial disagreement as to their application to various fact situations. Where lacunae exist, the utility of advisory opinions is greatly constrained. The foundational principles of positivism and sovereignty that are key pillars of international law do not lend themselves to judicial activism in creating legal rules in the absence of political action to create them. On the other hand, where a situation of non liquet emerges from disagreement over definitions or the application of a legal principle to a particular situation, an advisory opinion could have either one of two beneficial outcomes.

In the first case an advisory opinion could clarify the meaning of terms where uncertainty exists. This situation would require strong arguments to support the opinion and justify it. It might be elaborated on the basis of original intent reflected in the travaux préparatoires, clear patterns of application of terms and principles in the action of States parties to the agreements where uncertainty exists or lack of clarity is perceived, or lucid reasoning by analogy to similar situations where greater certainty can be demonstrated.

The second case could result from an opinion that clarification cannot be provided and that the matter remains non liquet. In this case, there would be an unambiguous signal that political/ diplomatic action would be required to clarify the issues in dispute. Take for example the hypothetical example of a case seeking clarification of the non-appropriation clause of the Outer Space Treaty. A non liquet in such a case would leave those wishing to assert that a prohibition against off Earth mining existed in international law without a legal vindication of their position while those wishing to engage in such mining would face uncertainty because the Court had not ruled definitively that non appropriation did not apply to them. Since the mining advocates would be ~~handicapped~~ by uncertainty in their approaches to potential investors, both sides would have an incentive to seek a political resolution with the compromises that was likely to entail.

#### International space legal regime are needed to solve space war --- malleable laws are key in outer space

Hart 21 [Amalyah Hart, Amalyah Hart is a science journalist based in Melbourne, 11-19-2021, "Do we need new space law to prevent space war", Cosmos Magazine, https://cosmosmagazine.com/people/society/space-law-to-prevent-space-war/] simha

The week before last, a UN panel approved the creation of a working group to discuss next-generation laws to prevent the militarisation of space. The move comes as space 2.0 seems to be going into hyper-drive, with countries and corporations racing to claim their stake in the final frontier. It’s timely, as the potential for friction is gathering by the day, with China, India, Russia and the US testing anti-satellite missiles on their own satellites and creating worrisome clouds of debris. This week’s destruction by Russia of its “dead” satellite, Cosmos 1408, underlined the issue. Meanwhile, the orbital space around Earth is becoming jammed with machinery; currently, there are 3,372 active satellites whizzing around Earth, but in one or two decades that number is set to leap to potentially 100,000 or more. And that’s ignoring the space stations, telescopes and spyware already in orbit as countries flex their aerospace muscles. It’s a cosmic fracas. And contested territory is prime fodder for international disputes, as we know. It’s these kinds of disputes the group of UK diplomats who proposed the UN motion want to prevent, by coming to an agreed-upon set of norms for behaviour in space. Space law: what are the issues at stake? The current international framework for law in space is the UN’s 1967 Outer Space Treaty (OST), which sets governing principles for the exploration of space, including that space should be free for use by all nations, that celestial bodies like the Moon should be used exclusively for peaceful purposes, and that outer space should not be subject to national appropriation. Under international law, any and all objects being launched into space must be registered to avoid collisions. On top of these global laws, each nation-state has its own legal framework around the registering and launching of objects into space. But as technology evolves and new opportunities arise, are these old laws equipped to govern new problems? The UN’s 1967 Outer Space Treaty sets governing principles for the exploration of space, including that space should be free for use by all nations. “There exists an incredible amount of applicable law already, and it has served us really well,” says space law expert Steven Freeland, an emeritus professor at Western Sydney University and professorial fellow at Bond University. Freeland is vice-chair of a UN Committee on the Peaceful Uses of Outer Space (COPUOS) working group that is developing laws around the exploitation of resources in space. “There’s a lot of law at the multilateral level that then filters down to other layers of bilateral or ‘minilateral’ agreements and national laws. But clearly things move so quickly with technology, we’re doing so many more things in space that were beyond the contemplation of the drafters of the original treaties. Ideally we need more.” Freeland says there are myriad complex, interconnected issues in space that need tighter laws. These include the increasing militarisation of space; the proliferation of satellites, which can lead to overcrowding of “popular” orbits and increased demand for radio-wave spectra; ethical issues around human spaceflight; and the possible extraction of resources on celestial bodies like the Moon. Resource exploitation It might sound like science fiction, but mining in outer space is looking increasingly likely in the not-too-distant future. In September 2020, NASA announced that it would award contracts to private companies for the extraction and purchase of lunar regolith (rock matter) from the surface of the Moon, which could be mined and then studied in situ by the company, before the data and rights are transferred to the space agency. The move heralds what our space-based future might look like, with private companies mining celestial bodies for their precious resources. In our solar system, composed of millions of celestial bodies both large and small, the opportunities for cashing in look potentially endless – provided technology advances to the level of practical spaceflight. “Most wars on Earth have historically been fought over a quest for resources,” says Freeland, “so it’s incredibly important [to have appropriate space laws].” Just last month, scientists announced the discovery of two extraordinarily metal-rich near-Earth asteroids (NEAs), comprised of roughly 85% metals like iron, nickel and cobalt, which are thought to exceed Earth’s entire known metallic reserves. These three highly valuable metals, often known as the “iron triad”, are particularly critical for the energy supply chain and a renewable energy future; they’re used to build lithium-ion batteries, electrochemical capacitators for storing energy, and nano-catalysts for use in the energy sector. Under the OST, outer-space resources cannot be appropriated by nations, but the law and principle around the commercial use of space resources is less clear. The 1979 Moon Treaty holds that any celestial body is under the jurisdiction of the international community and therefore subject to international law. The treaty outlaws the military use of any celestial body as well as providing a legal framing for the “responsible” exploitation of celestial resources. But, to date, no space-capable nation has ratified the treaty. Militarisation That brings us to the militarisation of space. As technology advances, the potential avenues for weapons that cross the border from terrestrial to cosmic continue to proliferate. So, what laws protect us from a space war? “The issues about security in space have historically been dealt with by the CD, the Conference of Disarmament, but more recently the UK has led discussions at the United Nations that effectively seek to change the diplomatic language and thinking about space security,” says Freeland. Currently, the principles for governing space under the OST forbid the military use of space, but space is already used for military purposes such as surveillance, and some missiles carve a path through outer space on their journeys to their targets. As it currently stands, the only weapons found in space are the TP-82 Cosmonaut survival pistols that Russian astronauts regularly take on board the Soyuz spacecraft, intended to protect them from a potential wild animal attack if they are forced to emergency land in “off-the-map” territory. But as technology proliferates, the opportunities for space-based militarisation also grow. The existing laws were drafted long before many of these technologies were even dreamed up. The most worrisome technologies currently being trialled are anti-satellite missiles. “We have this strategic competition going on amongst the major powers,” says Gilles Doucet, a space security consultant based in Canada who worked for 35 years with the Canadian Department of National Defence. Doucet is both an engineer and an expert in space law. “They all wish to be dominant and make sure that their national security is secured by controlling, or at least not having other people control, outer space.” But what kinds of defence technologies are being developed in space? Doucet says the most worrisome technologies currently being trialled are anti-satellite missiles of the sort that Russia deployed earlier this week. Known as direct-ascent anti-satellite missiles (DA-ASAT), they can destroy satellites in low Earth orbit. “This essentially looks a lot like ballistic missile defence, but it’s happening in outer space against satellites,” he says. In fact, DA-ASAT technology is dependent on the same technology used for midcourse ballistic missile defence – the technology that the US, for example, deploys to defend itself from potential ballistic missile attacks on North America. These missiles fly at altitudes of around 3,000 to 4,000 kilometres, well within the low-Earth orbit many satellites operate in. This technology is being developed and tested by the US, China, India and Russia. “Destroying another country’s satellites would only occur in an armed conflict scenario,” Doucet says. “It would be because the other country’s satellite is providing an important military role – for example, a GPS satellite for directing munitions or an imagery satellite for locating your forces.” Other military applications in space, Doucet says, include the jamming of satellite communications and navigation, as well as interference with some GNSS signals, of which GPS – the satellite navigation system we all use for things like Google Maps – is one. Satellite jamming can have major disruptive potential. “You might be conducting an operation in a conflict – let’s say you wish to target a certain facility. Your missile system or your drone-launching missiles rely on GPS to guide them,” Doucet says. “So if you’re on the other end of it wanting to protect yourself, then you’ll send out jamming signals.” But while these signals can help defend a military target, Doucet says many satellites provide services for military and civilian companies and organisations at once. In this case, jamming a satellite’s signal may also interfere with civilian services it provides, including aircraft and ship navigation, car mapping, even timing signals for financial transactions. This means satellite jamming has major disruptive potential. And there are other areas where satellite technology could have duplicitous or combative potential. “Close proximity operations seem to get countries a bit upset,” says Doucet. Close proximity operations, as the name suggests, involve satellites moving close to other satellites. “One reason might be intelligence or inspection, just to take close images to understand how it’s built. But you may be getting close to intercept signals or to interfere with signals. “So that is a concern, because it’s one thing to get close for passively collecting information, but if you’re close you may also be in a position to interfere.” What might new space law systems look like? “We have a lot of space systems that are dual use, that have the potential to do harm,” Doucet says. “I’d like to see some transparency on the mission, on what you’re doing, to help alleviate concerns. “That might sound like a small step, but to militaries it’s actually a really big step to provide transparency.” Doucet says he’d also like to see clarification of the existing principles for space law already set out in the OST and other treaties. In fact, he’s currently working on the MILAMOS Project, developing a Manual on International Law Applicable to Military Uses of Outer Space at Canada’s McGill University. “I would like to see the existing legal regime being given a bit of life,” he says. “We’ve got tremendously good outer space principles, but over several decades countries have kind of refused to give them life because it’s too controversial. “The third thing I’d like to see is the major space powers sit down and talk. They’re all potentially losers if this keeps going down this path. I don’t think there’s a winner in a space war.” For all these complex problems, Doucet is cautiously optimistic about our chances of avoiding a space war. “I don’t think the issue about space security is as unique as people think,” he says. “Yes, it’s a very unique domain, but the actors are all the same, the interests are all the same. It’s the same people that have struggled over ballistic missile proliferation, nuclear weapons proliferation, treaties about the high seas, about aviation and all kinds of things. “So, we shouldn’t think this is an unsolvable problem. We may take lessons from how we’ve managed to agree to disagree in other areas beyond national jurisdiction.” Freeland agrees that even if international tensions may simmer at home, it’s in the best interest of major global powers to come to agreements about laws in space. “When it comes to these really big issues, particularly issues that have the propensity to go horribly wrong if we follow an irresponsible path, in the end it’s in [governments’] common interest to agree to the rules of the road,” he says. “The important element is that they have had the opportunity to buy in on the framing of those rules.“I think we need to be optimistic. With a great deal of caution, cool heads will prevail.”