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Accepted for publication in Rosi Braidotti, Emily Jones, Goda Klumbyte (eds.) 2022. More Posthuman Glossary. Bloomsbury Academic. London.

**Research Repository link:** <https://repository.essex.ac.uk/31829/>

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<https://www.bloomsbury.com/uk/more-posthuman-glossary-9781350231429/>

## **Posthuman International Law and Outer Space**

Emily Jones, Rosi Braidotti

While scholarship on posthuman theory and international law is a relatively new and emerging field, it is one that is taking shape fast, as exemplified by the many entries on law in this Glossary. Posthuman theory, gender theory and critical environmental law scholarship are especially useful in recasting the debate and thinking through the development of outer space law.

On the critical side, legal scholars argued that the law is fundamentally anthropocentric, prioritising human interests over all others and casting non-human animals and the material world as objects to be exploited for human, and in particular human economic, interests on this, as on other planets (Jones 2022). While many of the core legal texts on outer space were drafted and agreed upon decades ago, such as the Outer Space Treaty of 1967 and the Moon Agreement of 1979, scientific and technological advances, alongside a new-found will to visit, exploit and dominate space have brought these legal instruments back to the forefront of legal and political debate.

Critical environmental law scholars have noted that international law combines uncritical anthropocentrism with patterns of human exceptionalism. This results in upholding binary oppositions between subjects and objects and downgrading the objects to the status of exploitable resources (Jones 2021; Otto and Jones 2020; Gear 2017). International law is characterised by this constant privileging of human subjects and human interests, including state economic interests, as the ultimate justification for environmental exploitation. Whether it is being protected – as a venerable site - or exploited – as a valuable resource - non-humans and the environment are rendered as objects, albeit differing in status among themselves.

The objectification of the environment within international law not only limits the effect of the legal measures undertaken to protect it under the existing logic of the law, but it also introduces and thus rationalises other forms of discrimination. For instance, Zylinska argues (2018) that the apocalyptic narratives which surround the Anthropocene are expressions of masculinist and Eurocentric panic. They also show the inability of the dominant social categories to confront vulnerability and fear without denial, scapegoating or aggression.

This deficit in relational competence and ethical care for others can be seen, for example, in the logic of the billionaire tech giants who propose selected human migration to Mars as the solution to climate change. Mars is envisaged as the solution, the place to go once we realize that the resources of planet Earth have been depleted. This applied transhumanist project combines analytic post-anthropocentrism with normative neo-humanism, declaring Gaia defunct and proposing the extension of the old extraction economy to other planets, through massive technological intervention. Human enhancement is an integral part of such an intervention, which is defended as the humanist pursuit of the perfectibility of the human species via science and technology.

The economic-minded transhumanists follow the legacy of humanism in another significant way: by actively disregarding the colonial nature of the policy they propose. Actively deploying the terminology of colonisation, venture capitalists such as Elon Musk and Jeff Benzos are indifferent to the echoes of European colonialism in their proposed elite, capital-intensive, white male utopia on Mars (see; Storr 2021).

This is where creative international law responses have been made, for instance, by posthuman legal theorists, to counter-act the omissions and slippages that mark the attempts to legalise intergalactic mining and extraction practices. For instance, feminist scholars have called for a feminist founding constitution for Mars, noting the need to avoid the perpetuation of past and existing inequalities (Braidotti 2021; Yoshida 2018; Jones 2018; McNeily 2018). A feminist constitution for Mars is a great idea on the one hand, but like any universalist project it is not very realistic in that, in founding a constitution, decisions will have to be made about how things are decided, how things are owned (or not) and who by etc. Moreover, while a feminist constitution may seek to resist traditional modes of property and power (O'Donoghue and Houghton 2019a, 2019b), on another level, this seems impossible in the context of, ultimately, the colonisation of Mars. After all, whether this colonisation is led by feminists or not, it remains colonial and therefore is inherently anti-feminist from a critical feminist perspective (Jones 2018).

Let us keep in mind that, under existing legal provisions, outer space is deemed to be part of the global commons. This means it is held in common by all of humanity and it therefore cannot be used for commercial exploitation (The Outer Space Treaty 1967; The Moon Agreement 1979). Such a provision seems promising, potentially providing a new way of understanding property. However, this alternative vision is already being challenged before we have even properly gotten to Mars. The US, for one, has made recent attempts to shift this long-held view in international law that outer space is part of the global commons. In 2020, following an Executive Order by President Trump a few months earlier which called for the inclusion of commercial partners in space exploration and encouraging exploration of space mining (US Federal Register 2020), NASA released the Artemis Accords (2020). The Accords aim to 'establish a common set of principles to govern the civil use of outer space', seeking to 'facilitate exploration, science, and commercial activities for the benefit of humanity'. The Accords propose a series of bilateral agreements in which 'partner nations' agree to follow US-drafted rules (Ibid.).

The move away from ideas of shared cooperation and ownership, towards a property-based model which sees outer space as the next commercial frontier, blatantly contradicts the transhumanist capitalists' claim that they are motivated by ethical concern for the future of humanity. They rather appear to work to uphold and perpetuate the anthropocentric nature of international law, whereby matter, outer space, is seen as an object to be exploited for economic benefit. Given, however, that the underlying anthropocentrism of international law, and in particular international environmental law, has caused and justified vast environmental degradation, it is evident that anthropocentric, capitalist outer space laws and the great colonisation of space cannot provide the solution to the journey towards destroying the planet that humanity is on course to complete. To try to present this project as compatible with humanism, moreover, only adds insult to injury.

It may be more effective, as Zylinska notes, to exit the humanist script altogether, while embracing the postanthropocentric mode, to propose instead a 'feminist counterapocalypse' in the here and now (Zylinska 2018, 53). Nietzschean in character, this counterapocalypse introduces patterns of repetition with a difference, seeking to 'interrupt the habit' of the eternal return of the apocalypse, that is to say the flat replication of practices that have already failed on earth (Keller 2004, 19). Zylinska's counterapocalypse finds resolution in theories of posthuman relationality, that challenge the epistemic basis of the law itself and explode its contradictions. If humanity and its non-human companions are to move beyond the same old story of masculinism, sexism, colonisation, racism, speciesism and so on, the rejection of

anthropocentrism needs to be brought in line with the critique of humanism and more especially of its contemporary extra-galactic transhumanist crusaders.

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