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The Rhetoric of Nuclear Colonialism: Rhetorical Exclusion of American Indian Arguments in the Yucca Mountain Nuclear Waste Siting Decision

Danielle Endres

Nuclear colonialism is a system of domination through which governments and corporations disproportionately target and devastate indigenous peoples and their lands to maintain the nuclear production process. Though nuclear colonialism is an historically and empirically verifiable phenomenon, previous studies do not attend to how nuclear colonialism is perpetuated through discourse. In this essay, I argue that nuclear colonialism is significantly a rhetorical phenomenon that builds upon the discourses of colonialism and nuclearism. Nuclear colonialism rhetorically excludes American Indians and their opposition to it through particular rhetorical strategies. I identify three interconnected strategies of rhetorical exclusion that uphold nuclear colonialism. This essay discusses nuclear colonialism and rhetorical exclusion through examination of the Yucca Mountain nuclear waste siting process.

Keywords: Nuclear Communication; Colonialism; Rhetorical Exclusion; American Indian Nations; Yucca Mountain

Since the Manhattan Project, we have seen the Janus-faced development of nuclear technologies capable both of devastating the populations of Hiroshima and

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Nagasaki and of providing energy to cities and submarines. Whether the resulting technologies of nuclear production—nuclear weapons and nuclear power—are ultimately beneficial or harmful for society (as examined by early nuclear communication scholarship on the relationship between nuclear technologies and democracy) remains controversial.¹ Although much public debate over nuclear technologies has focused on the consequences of nuclear power and weapons, increasingly these debates are turning to discussion of the localized health, environmental, and cultural legacies of nuclear production from cradle to grave. Every stage in the nuclear production process, from uranium mining and milling to fission reactors to nuclear weapons development, produces radioactive waste that, unless safely contained, will continue to emit unsafe levels of radiation for generations to come. The turn to examining the environmental consequences of nuclear production illustrates the disproportionate effects of our nuclear era on local indigenous populations.

Nuclear weapons and nuclear power have devastating consequences for local populations surrounding the sites of nuclear production, particularly for indigenous people. Donald Grinde and Bruce Johansen, Grace Thorp and Valerie Kuletz have used a term coined by Ward Churchill and Winona LaDuke—radioactive or nuclear colonialism—to describe the disproportionate destruction of indigenous people and their land as a result of uranium mining and nuclear weapons development.² Nuclear colonialism is a system of domination through which governments and corporations target indigenous peoples and their lands to maintain the nuclear production process. According to LaDuke, “much of the world’s nuclear industry has been sited on or near Native lands” including reservation, treaty-guaranteed or sacred lands.³ This system operates at the expense of the health of indigenous peoples, their cultural survival and their self-determination.

Although there is sufficient evidence that nuclear colonialism is an empirically verifiable phenomenon, previous studies do not attend to a crucial aspect of this phenomenon, which is *how* nuclear colonialism is perpetuated through public policy deliberation and corporate discourses. In this essay, I argue that nuclear colonialism is significantly a *rhetorical* phenomenon that employs particular discursive strategies for enabling the perpetuation of nuclearism, continuation of colonialism, and deliberate exclusion of indigenous voices from decision-making. These strategies are successful, in part, due to the contested nature of indigenous nationhood and the public’s benign neglect of indigenous lands and peoples.

The first section of this essay illustrates nuclear colonialism as an historical and empirical phenomenon, particularly in the US. Next, I illustrate nuclear colonialism’s reliance on two interconnected sets of discourse practices: colonialism and nuclearism. In the third section, I examine the 2002 Yucca Mountain high-level nuclear waste site authorization controversy to reveal the rhetorical strategies of nuclear colonialism, their consequences, and their continuing legacies.

Nuclear Colonialism

Before attending to the rhetorical nature of nuclear colonialism, it is important to emphasize the scope and material effects of nuclear technologies on indigenous peoples and their lands. This is a history of systematic exploitation and indigenous resistance, spanning from the 1940s to present. As the Indigenous Environmental Network writes,

the nuclear industry has waged an undeclared war against our Indigenous peoples and Pacific Islanders that has poisoned our communities worldwide. For more than 50 years, the legacy of the nuclear chain, from exploration to the dumping of radioactive waste has been proven, through documentation, to be genocide and ethnocide and a deadly enemy of Indigenous peoples. . . . United States federal law and nuclear policy has not protected Indigenous peoples, and in fact has been created to allow the nuclear industry to continue operations at the expense of our land, territory, health and traditional ways of life. . . . This disproportionate toxic burden—called environmental racism—has culminated in the current attempts to dump much of the nation’s nuclear waste in the homelands of the Indigenous peoples of the Great Basin region of the United States.⁴

From an indigenous perspective, the material consequences of nuclear colonialism have affected the vitality of indigenous peoples. This can be seen clearly in both uranium mining and nuclear testing.

Uranium mining is inextricably linked with indigenous peoples. According to LaDuke, “some 70 percent of the world’s uranium originates from Native Communities.”⁵ Within the US, approximately 66 percent of the known uranium deposits are on reservation land, as much as 80 percent are on treaty-guaranteed land, and up to 90 percent of uranium mining and milling occurs on or adjacent to American Indian land.⁶ To support the federal government’s desire for nuclear weapons and power production, the Bureau of Indians Affairs (BIA) has worked in collusion with the Atomic Energy Commission and corporations such as Kerr-McGee and United Nuclear to negotiate leases with Navajo, Lakota and other nations for uranium mining and milling on their land between the 1950s to the present.⁷ BIA-negotiated leases are supported by the complex body of Indian Law, which I will demonstrate enables federal intrusion into American Indian lands and governmental affairs. These leases are heavily tilted in favor of the corporations so that American Indian nations received only about 3.4 percent of the market value of the uranium and low paid jobs.⁸ Uranium mining has also resulted in severe health and environmental legacies for affected American Indian people and their lands. From uranium mining on Navajo land, there have been at least 450 reported cancer deaths among Navajo mining employees.⁹ Even now, the legacy of over 1000 abandoned mines and uranium tailing piles is radioactive dust that continues to put people living near tailing piles at a high risk for lung cancer.¹⁰

The history of exploitation and resistance continues with nuclear weapons production. As nuclear engineer Arjun Makhijani argues, “all too often such damage has been done to ethnic minorities or on colonial lands or both. The main sites for testing nuclear weapons for every declared nuclear power are on tribal or minority

lands.”¹¹ From 1951 to 1992, over 900 nuclear weapons tests were conducted on the Nevada Test Site (NTS)—land claimed by the Western Shoshone under the 1863 Treaty of Ruby Valley. The late Western Shoshone spiritual leader Corbin Harney proclaimed Western Shoshone to be “the most nuclear bombed nation in the world.”¹² According to Western Shoshone Virginia Sanchez, indigenous people may have suffered more radiation exposure because of their land-linked lifestyle of “picking berries, hunting and gathering our traditional foods,” resulting in “major doses of radiation.”¹³ Yet, the federal government and legal system have made only token gestures toward compensating victims of nuclear testing. The Radiation Exposure Compensation Act (RECA) has strict qualification guidelines that have excluded many downwinders from receiving compensation.¹⁴ In addition to the effects on human health from nuclear testing, there is also an environmental toll through contaminated soil and water, which could harm animal and plant life.¹⁵

American Indian resistance is an important part of the story of nuclear colonialism. Despite the Radiation Exposure Compensation Act’s limitations, American Indian activists were instrumental in getting it passed. In response to discussion of renewed uranium mining in the US to support new nuclear reactors, the Navajo nation banned uranium mining and the Lakota nation successfully prevented corporate exploration of potential uranium mines on the Pine Ridge reservation.¹⁶ The Western Shoshone actively resisted nuclear testing from the 1980s to 1992 and challenged recent proposals that may portend renewed testing at the NTS. Every May, the Shundahai Network sponsors a Mother’s Day event at the Nevada test site, which culminates in a direct action to assert Western Shoshone land rights. Furthermore, resistance from Western Shoshone people and Utah downwinders forced the cancellation of a non-nuclear sub-critical test (Divine Strake) proposed for the NTS in June 2006.

Now, with over 60 years of uranium mining, nuclear weapons production and nuclear power, we face a high-level nuclear waste crisis. Once again, power brokers have looked to exploit American Indian lands, resources and peoples. In the twenty-year process of researching and authorizing a federal high-level nuclear waste repository site, only sites on American Indian land were seriously considered. In addition to the Yucca Mountain site, American Indian nations were also targeted for temporary waste storage through the now-defunct Monitored Retrievable Storage (MRS) program.¹⁷ And recently, a proposal by Private Fuel Storage (PFS) and the Skull Valley Goshutes to temporarily store nuclear waste at Skull Valley Goshute reservation was defeated by Skull Valley activists working with the State of Utah against the Skull Valley government and PFS.¹⁸ The struggle over the Yucca Mountain nuclear waste site is, as Kuletz pointed out, a continuation of struggles against nuclear colonialism: “Indian protests over the use of Yucca Mountain as a high-level nuclear-waste dump cannot be seen as an anomaly. Rather, they are a part of a persistent pattern of resistance to military occupation and nuclear activity.”¹⁹ Although we do not yet know the health and environmental effects of permanent nuclear waste storage, nuclear colonialism is not just about health and environmental devastation. It also intersects with sovereignty, nuclearism and colonialism, to which I now turn.

Nuclear Colonialism as a Discursive Phenomenon

Although the material implications of nuclear colonialism are undeniable, it is important to turn to the discursive dynamics of the phenomenon. Nuclear colonialism fundamentally depends on discourse because the policy decisions go through deliberation before being implemented. The decisions to site parts of the nuclear production process on or adjacent to indigenous lands rely on complex arguments and rhetorical strategies that invoke the interrelated discursive systems of colonialism and nuclearism.

Colonialism

Post-colonialism attends to the legacies of colonial systems. Diasporic Indian literary critic and theorist Gayatri Spivak has argued that attention must be paid to the identities of colonized peoples in relation to race, gender, ethnicity, and nationality.²⁰ Raka Shome and Radha Hegde's scholarship has pushed post-colonialism into critical-cultural communication scholarship.²¹ Although post-colonialism is a crucial area of study, it unfortunately implies that colonialism is over. For some countries (e.g., India, the Congo) the colonizers have left, leaving post-colonial peoples to grapple with the legacies of colonialism. However, colonialism still exists for indigenous people across the globe. Indigenous scholars such as Glenn Morris and the late Gail Valaskakis resist the notion of post-colonialism.²² As stated by Linda Tuhiwai Smith, "naming the world as 'post-colonial' is, from indigenous perspectives, to name colonialism as finished business . . . post-colonial can mean only one thing: the colonizers have left. There is rather compelling evidence that in fact this has not happened."²³ Despite the surprisingly common contemporary belief that colonization of indigenous nations is a thing of the past, we must not only recognize that colonialism still exists but also explore the communicative practices that maintain colonialism.

The present form of colonialism in the US is what Al Gedicks has called resource colonialism, whereby "native peoples are under assault on every continent because their lands contain a wide variety of valuable resources needed for industrial development."²⁴ As described by Marjene Ambler, the US government works in collusion with large national and multinational corporations to facilitate leases and access to indigenous resources that benefit the government and corporations to the detriment of indigenous communities.²⁵ Resource colonialism depends on ignoring the land ownership rights of the colonized. As such, it also relies on the country's legal and political system to limit the rights of the colonized, specifically drawing on both the domestic dependent relationship and the trust relationship that holds American Indian lands and monies in "trust" through the Bureau of Indian Affairs.²⁶ As American Indian Studies scholar Sharon O'Brien states, "today's 'Indian wars' are being fought in corporate boardrooms and law offices as tribes endeavor to protect and control their remaining resources."²⁷ Resource colonialism is a reality for many tribes in the US, especially those with oil, gas, coal and uranium reserves. In the

American West, the Western Shoshone, Navajo, Southern Ute, Paiute and Laguna nations possess a wealth of natural resources including uranium ore and vast desert “wastelands” for nuclear waste storage. Historian Gabrielle Hecht noted that “the history of uranium mining . . . shows that colonial practices and structures were appropriated—not overthrown—by the nuclear age, and proved central to its technopolitical success.”²⁸ Nuclear colonialism is a tale of resource colonialism.

Colonialism in all its forms is dependent on the discursive apparatus that sustains it. Mary Stuckey and John Murphy point out that rhetorical colonialism recognizes that the language used by colonizers is a crucial justification for the colonial project.²⁹ Caskey Russell argues that “vast justification systems have been set up to keep colonizers from feeling guilty.”³⁰ Indian Law is an integral part of the discursive system of colonialism that is employed over and over again to grant political sovereignty while simultaneously restricting it. Political sovereignty for American Indians is a complex concept that reveals that US Indian Law views American Indian nations as colonized peoples. It is not based on the inherent sovereignty of American Indian nations but instead upon the laws of the US that grant political sovereignty to American Indians. Yet, when sovereignty is granted, it is dependent upon acknowledgment by the grantor and is therefore vulnerable to coercive restriction. Although the Constitution, hundreds of treaties, and US Supreme Court decisions affirm the political sovereignty of American Indian nations, this form of political sovereignty is egregiously and unilaterally limited by the US federal government through its laws and policies.³¹ Three Supreme Court decisions under Chief Justice John Marshall in the early 1800s solidified the assumption that Indian sovereignty is granted and introduced the concept of American Indian nations as “domestic dependent nations.”³² According to Wallace Coffey and Rebecca Tsosie of the Native American Rights Fund, “the concept of Indian tribes as ‘domestic dependent nations’ means that tribal governmental authority is to some extent circumscribed by federal authority.”³³ The domestic dependent status defined by Supreme Court decisions in the 1860s discursively relegates American Indian nations to a partial and contingent nationhood. The term “domestic dependents” also calls forth paternalistic images of American Indians as child-like dependents who need to be protected by the federal government. Given these restrictions, if American Indian nations attempt to use Indian Law and its notion of political sovereignty for the improvement of the nation or to assert sovereignty, the nations are stuck in a catch-22 where they have to accept the limited notion of sovereignty granted through federal law in their quest for more rights within Indian Law. Although political sovereignty may acknowledge that American Indians have distinct nations and governments, this sovereignty is always defined as dependent on and subordinate to the US federal government.

Indigenous resistance over the years has created cracks in the system of resource colonialism, resulting in more control over resources and more lucrative leases for many American Indian nations.³⁴ Recognizing the limitations of political sovereignty as defined by US colonialist laws, Coffey and Tsosie and John Borrows have called for indigenous people to reject political sovereignty and to assert and live by their *inherent* sovereignty.³⁵ Borrows calls for “an inherent, unextinguished, and continu-

ing exercise of self-government” that challenges the imposition of political sovereignty upon American Indian nations by the federal government.³⁶ The concept of “inherent sovereignty” exemplifies the potential for resistance to colonization through a constitutive redefinition of sovereignty that supersedes the political definition.

Nuclearism

Considering the use of American Indian resources and lands in support of the nuclear production process, the discourse of nuclearism intersects with the discourse of colonialism to create the discourse of nuclear colonialism. Nuclearism is the assumption that nuclear weapons and nuclear power are crucial to the national interest and national security, serving to normalize and justify all aspects of the nuclear production process.³⁷ Nuclearism is an ideology and a discursive system that is “intertextually configured by present discourses such as militarism, nationalism, bureaucracy, and technical-rationality.”³⁸ Even with the end of the Cold War, we still see nuclearism present in contemporary US policy such as the call to license new nuclear reactors for the first time in over twenty years and research into new nuclear weapons technology (e.g., bunker busters).

Resistance to nuclearism comes in many forms, one of which is the body of scholarship called nuclear communication criticism. Within this corpus, Bryan Taylor and William Kinsella advocate the study of “nuclear legacies” of the nuclear production process.³⁹ The material legacies of the nuclear production process include the deaths of Navajo uranium miners, the left-over uranium tailings on Navajo land, and Western Shoshone downwinders. However, nuclear waste is in need of more examination; as Taylor writes, “nuclear waste represents one of the most complex and highly charged controversies created by the postwar society. Perhaps daunted by its technical, legal and political complexities, communication scholars have not widely engaged this topic.”⁴⁰ One of the reasons that nuclear waste is such a complex controversy is its connection with nuclear colonialism.

Nuclear communication criticism has focused on examination of the “practices and processes of communication” related to the nuclear production process and the legacies of this process.⁴¹ At least two themes in nuclear discourse are relevant to nuclear colonialism: 1) invocation of national interest; and 2) constraints to public debate. First, nuclear discourse is married to the professed national interest, calling for the sacrifices among the communities affected by the legacies of the nuclear production process.⁴² According to Kuletz, the American West has been constructed as a “national sacrifice zone” because of its connection to the nuclear production process.⁴³ Nuclearism is tautological in its basic assumption that nuclear production serves the national interest and national security and its use of national security and national interest to justify nuclearism. The federal government justifies nuclear production, which disproportionately takes place on American Indian land, as serving the national security. This justification works with the strategy of colonialism that defines American Indian people as part of the nation and not as separate,

inherently sovereign entities whose national interest may not include storing nuclear waste on their land.

A second theme in nuclear discourse is its ability to constrain public debate through invoking the national interest, defining opponents as unpatriotic and employing discursive containment.⁴⁴ For instance, “discursive containment often operates on the premise that public participation is a potential hazard to official interests and should be minimized and controlled.”⁴⁵ The strategies of nuclear discourse that constrain public debate work in concert with strategies of rhetorical colonialism that exclude and constrain the participation of American Indians in decisions affecting their land and resources. Taken together, the intersection of the discourses of colonialism and nuclearism create a powerful discourse aimed at perpetuating the nuclear production process for the benefit of the colonizer at the expense of their colonial targets.

Nuclear Colonialism, Discourse, and Yucca Mountain

Nuclear colonialism is inextricably linked to the concept of rhetorical exclusion. According to John Sanchez, Mary Stuckey and Richard Morris rhetorical exclusion is employed by those in power to “foreclose debate without appearing to engage in undemocratic action.”⁴⁶ Using American Indian Movement (AIM) activism and the case of Leonard Peltier as examples, they reveal that rhetorical exclusion provides “frames through which those who challenge the status quo may be understood.”⁴⁷ In their analysis, rhetorical exclusion is primarily a strategy of definition. They reveal the numerous ways that the federal government’s discourse explicitly defines American Indians as subversive, inherently dangerous, oppositional, and always already guilty. These definitions build upon and contribute to the assumption that the US federal government is democratic, legitimate, and inherently worthy of defense against any threats (i.e., American Indians). Rhetorical exclusion, then, is a strategy of definition that justifies taking “whatever actions those in power deem necessary to control challenges to its legitimacy.”⁴⁸

Despite the nuanced analysis offered by Sanchez, Stuckey and Morris, their articulation of the strategy of definition discussed above is not the only strategy of rhetorical exclusion in discourse about American Indians. Rather, their discussion of rhetorical exclusion provides a starting point for considering the multiple strategies of rhetorical exclusion in different situations.⁴⁹ Sanchez, Stuckey and Morris’ articulation of rhetorical exclusion is limited to how American Indians are explicitly defined in federal government documents as threatening or subversive. However, this strategy is used in a context very different from that of the Yucca Mountain controversy. In the late 1960s and 1970s, AIM was highly active and widely covered in the media, such as the takeover of Alcatraz and Wounded Knee. AIM activism in the 1970s called forth a rhetorical situation to which the federal government had to respond. However, even though current American Indian grievances pose as big a threat to the federal government’s *modus operandi* of colonialism, these issues do not receive the national attention they did in the 1970s. Today, rhetorical exclusion

includes more subtle ways of excluding American Indian voices from deliberation. This study aims to contribute to a more comprehensive understanding of rhetorical exclusion.

The nuclear waste controversy provides a good context for studying rhetorical exclusion. Although the nuclear waste crisis is on the radar of many Americans, the relationship between American Indians and nuclear waste is less apparent. According to a 2002 report by former Secretary of Energy Spencer Abraham, “we have a staggering amount of radioactive waste in this country.”⁵⁰ By 2035, there will be approximately 119,000 metric tons of high-level nuclear waste (well above the 77,000 metric ton limit) at the Yucca Mountain site.⁵¹ In anticipation of the current waste crisis, Congress passed the Nuclear Waste Policy Act (NWPA, 1982, amended 1987), which vested responsibility with the federal government for permanently storing high-level nuclear waste from commercial and governmental sources. The NWPA provides an immense subsidy for nuclear power industry because it stipulates that Congress assume billions of dollars of financial responsibility for nuclear waste storage. In 2002, the Secretary of Energy, the President, and Congress officially authorized the Yucca Mountain site as the nation’s first high-level nuclear waste repository. The site authorization was widely opposed by Western Shoshone and Southern Paiute nations who claim treaty-based and spiritual rights to the land. Other American Indian nations and indigenous organizations also opposed the site authorization decision because of its role in nuclear colonialism. My analysis reveals that the federal government, specifically the Department of Energy (DOE), rhetorically excluded American Indians and their arguments from the Yucca Mountain site authorization decision process. However, before discussing the rhetorical exclusion of American Indian arguments against the Yucca Mountain site, it is important to establish that there were indeed arguments against the site.

American Indian Opposition to the Yucca Mountain Site

Although Western Shoshone and Southern Paiute opposition can be seen in web-based American Indian organization documents, in protest events near Yucca Mountain and in articles in *Indian Country Today*, I focus on the statements and comments from self-identified American Indians of various nations during the Yucca Mountain site authorization public comment period.⁵² This public comment period is a flawed process. Current models of public participation in decision-making are inherently exclusive because they are technocratic, occur too late for input to change the outcome, are conceived by decision-makers as a one-way transfer of information, and ultimately do not allow the public to influence the decision.⁵³ Current models of public participation also define what counts as legitimate arguments—scientific and technical arguments—and exclude social, political, and emotional arguments.⁵⁴ However, even though the Yucca Mountain site authorization public comment period is a guise of deliberation, it is still important to examine the public comments and the DOE’s response to them. The Nuclear Waste Policy Act (NWPA) legally mandates that the DOE consider public comments before recommending a site for authorization; the

DOE produced a comment summary document and Spencer Abraham responded to selected arguments from the public comment period in his site authorization report.⁵⁵ Public comment periods were the only time that the federal government directly engaged with opposition to the Yucca Mountain site authorization. My examination of the public comments and the DOE's response to the public comments therefore reveals how the Department of Energy rhetorically excluded arguments that they were purportedly supposed to address. The DOE simply ignored the arguments made outside of the public comment period, but they actually had to rhetorically construct responses to the arguments made in the public comment period.

The main theme in the various public comments submitted by American Indian people is the value of land, specifically the spiritual rights to Yucca Mountain. The US claims that the Yucca Mountain nuclear waste site is located on federally controlled land (NTS, Nellis Air force Base, and BLM), but this is contested by Western Shoshone and Southern Paiute nations who claim treaty-based and spiritual rights to the land. The Western Shoshone lay claim to Yucca Mountain under the 1863 Ruby Valley Treaty of Peace and Friendship.⁵⁶ At a public hearing in Pahrump, Nevada, Corbin Harney indicates that, "the land that you guys are talking about, the DOE, we still haven't heard from the federal government or the state that they own the land. Under the Treaty of 1863, we still own it under your federal law."⁵⁷ Yucca Mountain is just one site of an ongoing struggle by the Western Shoshone for their land rights. Based on Supreme Court rulings and laws that argue that the Western Shoshone lost their treaty rights due to the gradual encroachment of westward settlers, the federal government disputes the Western Shoshone claim to the land.⁵⁸ Employing the discourse of colonialism, the US claims that the Western Shoshone lost their treaty rights through an International Claims Commission (ICC) ruling. However, the Western Shoshone contest the government's interpretation, citing their treaty and a technical loophole that Congress never actually filed a finality clause for the ICC ruling.⁵⁹ The Western Shoshone case for land ownership is bolstered by two U.N. commission rulings that conclude that the US claim to Western Shoshone lands violates international human rights law.⁶⁰

In addition to claims of land ownership, members of the Western Shoshone and Southern Paiute nations argue that Yucca Mountain is part of their traditional homeland that holds cultural, spiritual, and resource value. Members of the Las Vegas Paiute, the Lone Pine Paiute Shoshone, the Big Pine Paiute, the Western Shoshone National Council, Western Shoshone, and the Utah Paiute all comment that Yucca Mountain has been part of their homeland since "time immemorial."⁶¹ At a public hearing in Las Vegas, Southern Paiute Edward Smith suggests the following about the sacredness of Yucca Mountain:

Our people, along with other Southern Paiute tribes and Western Shoshone and Owens Valley Paiute peoples have lived, traveled, worked, raised children, worshiped, harvested plants, animal, water and mineral resources and died in these lands for thousands of years . . . These lands are part of our people and we are part of these lands. The two [sic] connected as one and that connection is everlasting . . . This land is and will always be Indian land.⁶²

The connection to Yucca Mountain and the surrounding land is inherently one of place. It is not just any land that is valued; it is specifically Yucca Mountain. Kuletz's analysis reveals that "Yucca Mountain may be comparatively small, but it is a powerful place nonetheless. The Western Shoshone and Southern Paiute Indians call the power such places possess *Puha* because the mountain, like all things Euroamericans call 'inanimate,' possesses energy, vitality, [and] life force."⁶³ This connection to place is typical of many American Indian cultures. According to Vine Deloria Jr, "American Indians hold their land—places—as having the highest possible meaning, and all their statements are made with this reference point in mind."⁶⁴ The American Indian Religious Freedom Act (AIRFA) purportedly affirms American Indian nations' rights to practice their religion and access to sacred lands and natural resources (including those outside of reservation lands) essential for conducting the religion, even if the nations have not had contiguous usage. However, Indian Law and the system of colonialism limits the efficacy of the AIRFA and other laws. As the Native American Rights Fund writes:

Unfortunately, the laws of the United States overlook that our own landscape is dotted with equally important American Indian religious sites that have served as cornerstones for indigenous religion since time immemorial. The Forest Service, the Park Service, and private interests have been allowed repeatedly to destroy irreplaceable Native sacred sites.⁶⁵

Therefore, American Indian spiritual claims to land are often overlooked in favor of competing corporate or national interests.

Naming Practices and the National Interest

Despite the presence of American Indian arguments against the Yucca Mountain site in the public comment period, these arguments were excluded through three interconnected rhetorical strategies, beginning with the naming practices that position American Indians as part of the US public that must sacrifice its land for the national interest. As Judith Butler has argued, "naming is at once the setting of boundary, and also the repeated inculcation of a norm."⁶⁶ Mary Stuckey and John Murphy have identified naming as a powerful strategy of rhetorical colonialism, such as naming American Indian nations as "tribes."⁶⁷ In nuclear colonialism, naming practices discursively assimilate American Indians into the US public and designate their lands as national sacrifice zones.

In the Yucca Mountain siting controversy, the federal government named American Indians as members of the US public by limiting American Indian participation in the Yucca Mountain site authorization decision to the *public* comment period. Although American Indians do have citizenship in the US (Indian Citizenship Act of 1924), they are also members of sovereign nations. Several nations specifically requested government-to-government negotiation before and during the public comment period. Chad Smith of the Fort Mojave Indian nation submitted one of many public comments requesting government-to-government negotiations:

“Indian tribes must be consulted on a government-to-government basis, not through the public scoping process.”⁶⁸ Despite these requests, the public comment period became a metonymy for government-to-government negotiations. The DOE defined the process so that if American Indian nations wanted to submit “official” and “legitimate” arguments against the site, they had to use the public comment period; as its name implies, the public comment period names its participants as part of the US public. After the public comment period, the Department of Energy subsumed American Indian arguments within the general category of public opposition to the site. In former Secretary of Energy Abraham’s response to public comments, he referred to participants in the public comment period using the vague terms “critics,” “the public,” and “opponents.”⁶⁹ There is only one sentence in the report that indicates that American Indian people might have been involved in the decision-making process. Abraham writes that “my predecessors and I invited and encouraged public, governmental, and tribal participation at all levels.”⁷⁰ However, he neither states whether American Indians actually participated nor acknowledges the American Indian public comments which criticized the process.

Instead of explicitly naming American Indians as “savages” (a common strategy identified in the scholarship on rhetorical colonialism), this strategy names American Indian nations as part of the US public by denying government-to-government negotiations, forcing participation in the public comment period and describing all opponents as public critics. This simultaneously deflects the sovereignty of American Indians and hails them as assimilated members of the US public, resulting in the rhetorical exclusion of American Indians from the public comment period. Furthermore, forcing American Indians to participate in the public hearings also serves to exclude their arguments about land rights, sovereignty and government-to-government negotiations because, as discussed above, current models of public participation exclude non-scientific arguments. Although American Indian nations had asserted their land rights and political sovereignty in the public comment period, they and their arguments were rhetorically erased by a discourse naming them part of the US public.

This strategy is crucial to the perpetuation of nuclear colonialism because it allows the federal government to use the national interest as a justification for nuclear policies. If we consider American Indian nations to be sovereign nations, they have their own national interest which is often at odds with the national interest of the US. For instance, the national interest of the Western Shoshone to regain control of their treaty land is a direct threat to the Yucca Mountain project. Indigenous claims to treaty and land rights can pose a serious threat to US nuclear policies if the indigenous nations do not want to use their land for the nuclear production process. When indigenous people are recognized as sovereign nations, their arguments have the potential to pose a significant threat to the policies of nuclear colonialism. However, if indigenous people are named as part of the public of the colonizing nation, then their arguments can be redefined as coming from an interest group or ethnic group within the nation and the group can be asked to sacrifice their lands for the greater good of the nation.

Shifting the Burden of Proof

The naming strategy rhetorically excludes American Indian sovereign nations and their arguments from the process of public participation in decision-making. Nonetheless, American Indian people were not physically barred from appearing and making comments in the public comment period. American Indian people representing over twenty nations submitted comments during the public comment period. Nuclear colonialism also relies on a second strategy: rhetorically shifting the burden of proof. According to argumentation theory, policy changes, such as proposing a high-level nuclear waste site for Yucca Mountain, have a burden of proof to justify a change in the status quo.⁷¹ The burden of proof obligates arguers to provide justification for change—justification for siting high-level nuclear waste at Yucca Mountain. Those who would advocate defense of the status quo—not storing waste at Yucca Mountain—hold the presumption or predisposition to favor the status quo until good reason for change is offered. However, in the case of the Yucca Mountain siting decision, we see that the burden of proof is shifted from those advocating nuclear waste storage (a change from the status quo) to those who do not want waste stored at Yucca Mountain (status quo). One way the burden of proof is shifted is through the deliberation process (described above) that expects the public to prove that the science behind Yucca Mountain is flawed.

A second way the burden of proof is shifted is exemplified in Secretary Abraham's consideration of opposition arguments in his site recommendation report. Abraham's report includes a section about how he made his decision (and considered counterarguments):

I concluded that I should use three criteria in determining whether to recommend approval of the Yucca Mountain Project. First, is Yucca Mountain a scientifically and technically suitable site for a repository, i.e., a site that promises a reasonable expectation of public health and safety for disposal of spent nuclear fuel and high-level radioactive waste for the next 10,000 years? Second, are there compelling national interests that favor proceeding with the decision to site a repository there? Third, are there countervailing considerations that outweigh those interests?⁷²

While the first consideration is mandated in the NWRPA, the second two considerations were added by Abraham as “appropriate checks on a pure suitability based decision” to be evaluated *after* determination of the scientific and technical suitability of the site.⁷³ The second two criteria are crucial to the way that Abraham constructs and responds to opposition to the site. Opposition arguments had to demonstrate project costs sufficient to outweigh national interests, as defined in the following excerpt:

[Authorizing the Yucca Mountain site] will advance our energy security by helping us to maintain diverse sources of energy supply. It will advance our national security by helping to provide operational certainty to our nuclear Navy . . . It will help us clean up our environment by allowing us to close the nuclear fuel cycle and giving us greater access to a form of energy that does not emit greenhouse gases. And it will help us in our efforts to secure ourselves against terrorist threats by allowing us to remove nuclear materials from scattered above-ground locations to

a single, secure underground facility . . . I find that compelling national interests counsel in favor of taking the next step toward siting a repository at Yucca Mountain.

The shift in burden of proof is important because opponents must prove that their concerns outweigh the national interest as defined by the federal government. This is a nearly impossible task, especially when American Indian people are subsumed in the national interest through the naming practices demonstrated above.

In a system of nuclear colonialism, it is assumed that nuclear production is a good thing and that all related policies are also good and necessary for protection of the national interest. In this system, it is up to the opponents to prove that it is a bad idea to change the status quo to open a new uranium mine or to site a nuclear waste repository on indigenous land. In this case, the burden of proof is shifted through particular rhetorical choices that justify the Yucca Mountain site.

Strategic Silence

In addition to outlining a decision calculus that shifts the burden of proof in a way that makes it impossible to offer a counterargument that would outweigh the national interest, the site recommendation report also ignores American Indian arguments when it outlines and responds to the “principal arguments” against the site. The third strategy of nuclear colonialism—strategic silence—explains *how* indigenous voices can be suppressed in official documents. In Sanchez, Stuckey and Morris’ conception, rhetorical exclusion is expressed through specific defining practices that label American Indians as threatening and already guilty.⁷⁴ However, I argue that rhetorical exclusion can also be achieved through the strategic use of silence. Strategic silence acts as a form of rhetorical exclusion when silence is used by a group with power over another group as a way to exclude their voices or arguments. This way of defining strategic silence is different from Robin Clair’s notion of silence as an act of resistance by marginalized groups.⁷⁵ It is also different from Barry Brummett’s articulation of strategic silence as an unexpected response that rhetorically *calls attention to* the silence.⁷⁶ The Yucca Mountain case reveals that strategic silence can also be used to continue the silencing of an already silenced group by *drawing attention away from* the silence. This form of strategic silence works best when there is general lack of understanding among the public about the issue or group being silenced. For example, using strategic silence to exclude American Indian arguments against the Yucca Mountain site is enabled by the colonizer’s version of history that emphasizes that American Indians were defeated and have all been assimilated into “American” culture. As stated by Derek Buescher and Kent Ono, “contemporary culture masks the continuing lived history of people disenfranchised by colonialism by failing to acknowledge colonialism’s presence in the US today.”⁷⁷

So, how does Abraham’s site authorization report employ a strategic silence to rhetorically exclude American Indian arguments? In a section titled, “None of the Arguments against Yucca Mountain Withstands Analysis,” Abraham identifies seven “principal counterarguments” against the site:⁷⁸

The final question I examine is whether the arguments against its designation rise to a level that outweighs the case for going forward. I believe they do not, as I shall explain. I do so by briefly describing these principal arguments made by opponents of the Project, and then responding to them.⁷⁹

However, American Indian arguments are not included in the list of seven principal arguments. This strategic silence excludes American Indian arguments regarding treaty rights and the necessity of government-to-government consultation. Abraham justifies strategic silence through other rhetorical choices in the document, namely of the use of the term “principal counterarguments.” Using the word “principal” provides a justification for the selection of counterarguments that will then, by implication, make other non-included arguments seem trivial or irrelevant. Yet the arguments listed by Abraham are not the most important. Rather, from the perspective of the federal government, they are the most easily addressed and most easily weighed against the national interest.

American Indian arguments against the site, on the other hand, are the most difficult to address and provide some of the most important challenges to the project. Recall that nearly all the American Indian public comments addressed the violation of the Treaty of Ruby Valley by proposing a high-level waste site on Western Shoshone land. To respond to this argument would require not only that the federal government prove that they actually hold rights over the land (which I have shown above to be quite contested) but also that the federal government acknowledge American Indians as members of separate nations (which makes it difficult to dismiss their arguments in the name of US national interest). Because American Indian arguments raise issues of fairness, treaty rights, legal protection for use of sacred lands and the systemic colonization of American Indians, these arguments may act together as a significant challenge to the project. Indeed, there is great risk for the US in relinquishing the colonial system; “genuine recognition of indigenous peoples (colonized without consent) must involve a redistribution of both political power and resources, which terminates not only their economic and social subordination but also the colonial relationship itself.”⁸⁰ Thus, American Indian opposition to the site threatens the very nature of the power relationship between the US and American Indian nations.

Strategic silence depends upon how the discourse of colonialism gives the impression that the Indian wars are over, that the US won, that American Indians are an interest group instead of sovereign nations and that American Indians have been assimilated into the melting pot of the US. In a milieu where these arguments and perceptions exist, it is not surprising that many Americans lack knowledge about the contemporary struggles of American Indian nations and that Abraham was able to perpetuate this strategic silence. Besides American Indians and their supporters, there is little evidence that other audiences have noticed the rhetorical exclusion. In a review of over 300 stories in the national news media on the site authorization decision, only one covered the Western Shoshone and Southern Paiute opposition to the site.⁸¹ Thus, strategic silence serves the interests of continuing a system of nuclear colonialism and avoiding discussion of American Indian sovereignty. It is in the

government's interest not only to perpetuate nuclear colonialism but also to keep it under wraps. However, as Robin Clair notes, "a trace of the marginalized and silenced other can be found in what is said or written. The negation, or silence, we are told, is never complete."⁸²

Conclusion

This essay is a first step in articulating nuclear colonialism as a rhetorical phenomenon. The rhetoric of nuclear colonialism draws from the discourses of colonialism and nuclearism to justify the continued disproportionate and unjust use of indigenous lands to sustain the US national interest in nuclearism. My articulation of the rhetoric of nuclear colonialism contributes to rhetorical theory by demonstrating how a phenomenon often expressed with empirical evidence fundamentally relies on discourse for its perpetuation. This reliance on rhetoric includes the use of particular rhetorical strategies such as naming practices, shifting the burden of proof, and strategic silence. These strategies work to exclude American Indian nations and their arguments from the deliberative process. These strategies also help to complete our understanding of the concept of rhetorical exclusion. Because the rhetoric of nuclear colonialism is more complicated than the limited strategies presented in this essay, further research should be done to disclose the rhetoric of nuclear colonialism.

My exploration of the rhetoric of nuclear colonialism also suggests that colonial practices and discourse still exist in the US and other areas of the world. While critical-cultural communication scholars have engaged in post-colonial criticism, we should also engage in and encourage colonial and indigenous criticism. This essay identifies several aspects of colonialism, such as the catch-22 of political sovereignty, the complexity of American Indian nationhood and particular strategies of rhetorical exclusion, each meriting continued study. If we cannot recognize the colonial relationship between American Indians and the federal government, our attempts to understand American Indian movements and resistance will fall short.

This essay is aligned with recent work in nuclear communication focused on localizing and particularizing the consequences of nuclear weapons and power on society. However, my essay expands this body of scholarship by specifically attending to the localized consequences of nuclear technologies for indigenous peoples. Nuclear colonialism is, in part, an example of environmental injustice. American Indian opponents of nuclear colonialism often identify with the environmental justice movement, whose members argue that toxic waste and pollution are disproportionately linked to marginalized communities—people of color and the poor.⁸³ Environmental racism, Robert Bullard argues, "is reinforced by government, legal, economic, political, and military institutions."⁸⁴ The environmental justice movement was created to address the localized affects of technological development and globalization on marginalized communities. Environmental injustices often go unnoticed unless activists rise up to challenge the injustices.

As we build scholarship on the rhetoric of (nuclear) colonialism, it will also be important to examine the role of incommensurable values and standpoints between indigenous people and colonial powers. For instance, my analysis of American Indian public comments and the Department of Energy's documents reveals fundamentally different perspectives on the value of the land. The Western Shoshone and Southern Paiute people argue that Yucca Mountain is sacred and that the project may irreparably destroy the spirituality and resources of the land. In contrast, the DOE describes the land as a "wasteland," even saying that "*no one* lives at Yucca Mountain" and that "there are no known natural resources of commercial value at Yucca Mountain (such as precious metals, minerals, oil, etc.)."⁸⁵ From the perspective of the federal government, then, the land is valuable because of its role in furthering the national interest for a greater number of people than the "handful" of opponents. Assuming the greatest good for the greater number of people, a sacrifice is demanded of those living by Yucca Mountain for the good of the nation.⁸⁶ Maurice Charland uses Lyotard's notion of *differend* to describe this type of radical incommensurability, a notion manifested in the inability of the republic to see outside its decision-making paradigm to include discussions of indigenous sovereignty and differing perspectives on land use.⁸⁷

If the rhetoric of nuclear colonialism is designed to exclude American Indian nations from deliberation and if Charland is correct that the decision-makers may not be capable of seeing outside their concept of decision-making, then the hope for challenging nuclear colonialism must come from resistance outside the deliberative system. Although my essay focuses on the discursive formation that supports the federal government's perpetuation of nuclear colonialism, it is important to recognize that American Indian nations are resisting it in many ways—protesting, filing lawsuits, seeking media attention, asserting their inherent right to proclaim their lands as Nuclear Free Zones and banning uranium mining on their lands. Even though nuclear colonialism attempts to silence American Indian voices, nuclear colonialism has not completely succeeded, because there is an active resistance movement. As Robin Clair notes, "within each practice of oppressive silence, there is a possibility of voice."⁸⁸ We must also look for the possibilities of voice and the instances of voice that emerge from nuclear colonialism.

Ultimately, the policies and discourse of nuclear colonialism continue. The Department of Energy recently submitted an application to the Nuclear Regulatory Commission (NRC) for a license for the Yucca Mountain project, which continues to be funded annually by Congress. Private Fuel Storage and the members of the Skull Valley government who support temporary storage on the reservation have filed a lawsuit to reverse the Department of Interior and Bureau of Land Management decisions which stopped the project.⁸⁹ Interest in licensing new reactors and producing new types of nuclear weapons has created pressure to re-open and open new uranium mines on Lakota and Navajo land. However, there are still openings for resistance to nuclear colonialism. Although the Yucca Mountain site was authorized in 2002, it has not yet begun to accept waste. The DOE still needs to obtain their NRC license; and an interview with an NRC official reveals that the NRC usually takes three

to four years to evaluate an application.⁹⁰ Thus, American Indian activists argue that the 2002 siting decision has not foreclosed their fight against the site. Shortly after the site authorization decision, the Western Shoshone filed a lawsuit against the Yucca Mountain project based on their land rights under the Treaty of Ruby Valley.⁹¹ Beyond Yucca Mountain, Skull Valley activist Margene Bullcreek vowed to continue to fight against temporary nuclear waste storage on her reservation.⁹² And as discussed above, the Navajo and Lakota nations both experienced recent victories in their struggles against uranium mining. As nuclear colonialism continues, so does resistance to nuclear colonialism. Thus, further study of the discursive elements of nuclear colonialism can potentially reveal new strategies for resistance to nuclear colonialism.

Notes

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- [2] Ward Churchill,* "Radioactive Colonization: A Hidden Holocaust in Native North America," in *Struggle for the Land: Indigenous Resistance to Genocide, Ecocide, and Expropriation in Contemporary North America* (Monroe, Maine: Common Courage Press, 1993), 261–328; Ward Churchill and Winona LaDuke, "Native North America: The Political Economy or Radioactive Colonization," in *The State of Native America: Genocide, Colonization and Resistance*, ed. M. Annette Jaimes (Boston: South End Press, 1992), 241–66; Donald A. Grinde and Bruce E. Johansen, *Ecocide of Native America: Environmental Destruction of Indian Lands and Peoples* (Santa Fe, NM: Clear Light Publishers, 1995); Valerie Kuletz, *The Tainted Desert: Environmental and Social Ruin in the American Southwest* (New York: Routledge, 1998); Winona LaDuke, *All Our Relations: Native Struggles for Land and Life*, (Boston: South End Press, 1999); Grace Thorpe, "Our Homes Are Not Dump Zones," paper presented at the North American Native Workshop on Environmental Justice, ILIFF School of Theology, Denver, Col., 17 March 1995, <http://necona.indigenousnative.org> (accessed December 29, 2008). *I am aware of the charges of plagiarism and academic misconduct against Ward Churchill. After closely reading the report from U.C. Boulder, I found that Churchill's work on radioactive colonization is not indicted in the report. Although Churchill was the first to introduce the term "radioactive colonization," much subsequent independent research has substantiated the phenomenon. See: *Report of the Investigative Committee of the Standing Committee on Research Misconduct at the University of Colorado at Boulder* (May 2006), <http://www.colorado.edu/news/reports/churchill/download/WardChurchillReport.pdf> (accessed December 29, 2008).
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- [5] LaDuke, 97.
- [6] Grinde and Johansen, 203–4; Kuletz, 21.
- [7] Churchill, 264–82; Grinde and Johansen, 204–11.
- [8] Joseph G. Jorgenson, "The Political Economy of the Native American Energy Business," in *Native Americans and Energy Development*, ed. Joseph G. Jorgenson (Boston: Anthropology Resource Center/Seventh Generation Fund, 1984), 9–20.

- [9] Grinde and Johansen, 217.
- [10] Cited in Grinde and Johansen, 212.
- [11] Arjun Makhijani, "A Readiness to Harm," in *Nuclear Wastelands: A Global Guide to Nuclear Weapons Production and Its Health and Environmental Effects*, ed. Arjun Makhijani, Howard Hu, and Katherine Yih (Cambridge, MA: MIT Press, 1995), 8.
- [12] Speech by Corbin Harney, Mother's Day Gathering at the Nevada Test Site, 11–13 May 2007.
- [13] Cited in LaDuke, 99.
- [14] Joe Bauman, "A Fallout over Eligibility: Many N-victims Don't Live in Compensation Counties," *Deseret Morning News*, 13 April 2005.
- [15] Kuletz, 70–73.
- [16] The Navajo Nation, "Navajo Nation President Joe Shirley, Jr. signs Dine Natural Resources Protection Act of 2005" [press release], <http://www.sric.org/uranium/Navajo%20pres.%20signs%20uranium%20ban,%20for%20April%2030.pdf> (accessed December 20, 2007); "Owe Aku & Black Hills Sioux Nation Treaty Council Defeat Uranium Corporation" [press release], 9 November 2007, received via email on 9 November 2007.
- [17] M. V. R. Gowda and Doug Easterling, "Voluntary Siting and Equity: The MRS Facility Experience in Native America," *Risk Analysis* 20 (2000): 917; LaDuke, 103.
- [18] Geoffrey Fattah and Suzanne Struglinski, "Pressure to stop N-Dump, Lawsuit Says," *Deseret Morning News* 19 July 2007.
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- [24] Al Gedicks, *The New Resource Wars: Native and Environmental Struggles Against Multi-national Corporations* (Boston: South End Press, 1993), 13.
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- [28] Gabrielle Hecht, "Globalization Meets Frankenstein? Reflections on Terrorism, Nuclearity, and Global Technopolitical Discourse," *History and Technology* 19 (2003) 3.
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- [35] John J. Borrows, "A Genealogy of Law: Inherent Sovereignty and First Nations Self-Government," *Osgoode Hall Law Journal* 30 (1992): 291–353; Coffey and Tsosie, 192–96.
- [36] Borrows, 352.
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- [41] Taylor and Kinsella, "Linking Nuclear Legacies," 2.
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- [47] *Ibid.*, 28.
- [48] *Ibid.*, 28.
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- [51] US Department of Energy, "How Much Nuclear Waste is in the United States?" http://www.ocrwm.doe.gov/ym_repository/about_project/waste_explained/howmuch.shtml (accessed December 29, 2008).
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- [62] US Department of Energy, *Yucca Mountain Project Comments* (10/5/2001), 23.
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- [78] "Assertion 1: The citizens of Nevada were denied an adequate opportunity to be heard; Assertion 2: The project has received inadequate study; Assertion 3: The rules were changed in the middle of the game; Assertion 4: The process tramples states' rights; Assertion 5: Transportation of nuclear materials is disruptive and dangerous; Assertion 6: Transportation of wastes to the site will have a dramatically negative economic impact on Las Vegas; Assertion 7: It is premature for DOE to make a site recommendation for various reasons" (because of a GAO report that criticized the project, an unrealistic timeline, and the 293 technical items that the NRC said need to be resolved before licensing). Abraham, 32, 33, 37, 38, 39, 49.
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- [89] Deborah Bulkeley, "Goshute Leader Calls N-Waste Rulings Thin," *Deseret Morning News*, 14 September 2006.
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- [92] Personal communication.