# 1NC NDCA R3 vs Strake JS

## 1

#### The exclusive role of the affirmative is to defend the resolution as a general moral principle.

#### “The appropriation of outer space” suggests the topic is about appropriation as a singular concept, not one instance of appropriation among many

Breckenridge 9

Wylie Breckenridge (lecturer in philosophy at Charles Sturt University, Wagga Wagga, Australia; PhD, Oxford). “On Russell's Theory of Definite Descriptions.” 9 December 2009. JDN. <http://wylieb.com/Philosophy/DipArts/Russell.pdf>

Second, he appeals to the similarity of definite descriptions with indefinite descriptions - phrases like 'a man', 'some man', 'all men', etc. It is intuitively acceptable to say that in 'Some man is my father' the indefinite description 'Some man' does not purport to refer to any particular thing, and that the statement can be interpreted as 'There is least one man that is my father'. Russell claims that 'The man is my father' is just like 'Some man is my father', except that it also asserts uniqueness. So it should be interpreted in a similar vein as 'There is at least one man that is my father, and there is at most one man that is my father', or as 'There is **exactly one** man that is my father'. In general, he claims that it is natural to move from interpreting 'Some Φ is Ψ' as 'At least one Φ is Ψ' to interpreting 'The Φ is Ψ' as 'At least one thing is Φ, at most one thing is Φ, and whatever is Φ is Ψ'. Third, he shows how **his theory can solve** three **'puzzles' about definite descriptions.** The first is the problem about 'The evening star' and 'The morning star'. (The example that Russell uses is actually about 'Scott' and 'The author of Waverley', but I'll stick to the morning and evening stars.) The problem is that the truth of 'The evening star is the morning star' is interesting, and yet when we replace 'the morning star' by 'the evening star' (which denotes the same thing) we get the uninterestingly true statement 'The evening star is the evening star'. Russell's solution is that the apparently co-referring definite descriptions do not refer at all. The original statement is not about a thing called 'the morning star'; it just includes a claim about the unique existence of a thing with certain properties. So we cannot make the substitution in the way suggested. The second puzzle is that some statements involving definite descriptions seem to defy the law of the excluded middle. According to it, the King of England is either bald or not bald and so at least one of 'The King of England is bald' and 'The King of England is not bald' must be true. But if we listed all of the things which are bald and all of the things which are not bald we would not find the King of England on either list (because there is no King of England). So it seems that neither is true. Russell's solution is to point out that the law of the excluded middle says that the King of England is either on the first list or not on the first list. But not being on the first list is not the same as being on the second list - this is the important distinction between the two interpretations of 'The King of England is not bald' that we noted above. For the law of the excluded middle to hold, it only has to be the case that the King of England is either on the first list or not on the first list (and that is the case). It does not have to be the case that the King of England is either on the first list or on the second list (just as well - because this is not the case). The third puzzle came up in part I as well - how can we talk about things that do not exist in order to (truthfully) deny their existence? If we can talk about them then mustn't they, in some sense, exist? (Meinong thought yes.) Russell thinks no. His solution we have already seen - to deny that in the statement 'The greatest prime number does not exist' the word 'exists' is used as a predicate. Rather, the statement should be interpreted as saying 'It is not the case that there is exactly one greatest prime number'.

#### “Resolved” implies a general principle

Coburn-Palo and Luong 96

Nicholas Coburn-Palo (Assistant Debate Coach and Instructor in the Department of Communication at Weber State University, formerly a fulltime speech instructor and Director of Debate at The Pinewood College Preparatory School, and formerly an active member of the National Tournament of Champions Advisory Committee) and Minh Luong (Assistant Professor in the Ethics, Politics, & Economics Program at Yale University and International Affairs Fellow at the Yale Center for International and Area Studies), “Resolutional focus in policy argumentation: theory and application.” NFL Rostrum, January, 1996. JDN. https://debate.uvm.edu/NFL/rostrumlib/cxluong0196.pdf

Another reason why it would be logically correct to consider the resolution as the focus of the debate is the presence of alternative phrasing possibilities.9 The term "resolved" has appeared in all contemporary policy debate resolutions and a **review of the literature** indicates that the term implies a firmness or determination in reference to the claim which is being upheld.10 This interpretation **would** seem to **render atypical examples irrelevant** because no firmness or determination could be demonstrated in reference to the statement to which "resolved" applies. At an absolute minimum, there is **no linguistic reason** to believe that the resolution is meant as a boundary from which the affirmative is free to pick any example. Indeed, the authority of the topic selection committee to phrase the topic any way it wishes would seem to indicate that they at least have the option to permit the possibility of resolutionally-focused debate. The committee could have phrased the resolution as: Resolved: That a plan of the affirmative's choosing should be adopted by the United States government which would substantially change its foreign policy toward the People's Republic of China.

#### 1. Topic literature

#### The main legal question of the topic is general, not particular

Oduntan 5

Gbenga Oduntan (Lecturer in Law, Canterbury Christ Church University College, England; Legal Adviser to the Nigerian Government and Member, United Nations Nigerian/Cameroon Mixed Sub-Commission on the Demarcation of the Boundary between Nigeria and Cameroon) Imagine There Are No Possessions: Legal and Moral Basis Of The Common Heritage Principle In Space Law. Manchester Journal of International Economic Law, 2 (1). pp. 30-59. ISSN 1742-3945. 2005. JDN. https://kar.kent.ac.uk/1767/1/Imagine%2520There%2520are%2520No%2520Possessions.pdf

To begin with it must be noted that the **common heritage principle** is fast becoming part of **c**ustomary **i**nternational **l**aw. It constitutes a distinct basic principle providing **general but not specific legal obligations** with respect to the utilisation of areas beyond national jurisdiction. It inherently conflicts with the principle of sovereignty since it operates from the basis of regarding an environment as 'international public utility' requiring the obligation to co-operate. 13 The CHM principle was first introduced to cover outer space by the words contained in Article 1 of the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space of 1962.14

By the time the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Borders (1967)15 was drafted the resolve of states to render outer space a commons for all humanity had deepened. This led to the formulation of another interesting phraseology. In the discussion of the drafting of Article 1 of the Space Treaty (1967) the choice was between the terms ‘province of mankind’ and ‘common heritage’. Eventually the former phraseology was adopted because it was thought to reflect more closely the principles of the freedom of outer space and the **prohibition of appropriation.** However, it must be said that introduction of the newer phrase ought not to lead to any confusion nor does this prove that these phraseologies are mere declarations of intention as some writers have mischievously suggested.

Eventually, clear reference to this term was rendered in Article 11 (1) of the Agreement Governing the Activities of States on the Moon and other Celestial Bodies (1979). 16 It provided that: “The moon and its natural resources are the common heritage of mankind”. In addition to this, Article 4 (1) of the Moon Agreement combines the two terms in the following manner:

"The exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries irrespective of their degree of economic or scientific development".

It would, therefore, appear that as used in the Moon Agreement (1979) both terms emphasise different things although they are geared towards achieving the same noble objective. Article 4 (1) emphasises the co-operation of states parties in all their undertakings concerning the moon and other celestial bodies; on the other hand Article 11 coupled with Article 5 in particular provide the CHM Principle with **legal teeth.**

#### 2. Precision

#### The neg interp has the best explanatory power for why the resolution is worded the specific way that it is. The wording of previous topic this year demonstrates that when the topic is intended to be about a specific agent and course of action, the topic committee uses phrasing like “Member nations of the WTO ought to…”. The lack of an agent as well as use of the static verb phrase “is just” is better explainable by the topic being intentionally worded as a general principle than as a demand to debate ill-defined policies with an unclear agent.

#### Precision is a ceiling, not a floor. You should vote for the most intuitive and straightforward reading, not just any one that is minimally plausible, because the fundamental function of the topic is to keep everyone on the exact same page when coordinating research expectations, and that breaks down if each person has their own pet interp they think is most pragmatic.

#### 3. Limits

#### The topic has no clear agent and no clear limit on which areas of space or private companies are included. There is also no temporal limit, which compounds the abuse on a topic where most of the possible technologies are in the future and often the far future. There are literally millions of permutations of agents, regions of space, companies, and technologies that the aff could defend. That is an impossible neg research burden for a tournament that’s only two weeks after topic release.

#### Drop the debater on T—the damage was done and I can’t regive the 1NC after a 1AR shift. Use competing interps; it avoids arbitrariness and judge intervention.

## 2

### Not Appropriation CP

#### Counterplan: The production of orbital debris by private entities is unjust.

#### Vs.

#### Aff plan: The appropriation of outer space through the production of orbital debris by private entities is unjust.

#### Enforcement is through an Orbital Use Fee, specified by the aff’s Rao evidence.

#### It competes. NO appropriation is banned by the counterplan because the CP does not classify debris as appropriation while the aff does.

#### Debris does not need to be re-classified as appropriation. Their own author believes an OUF is possible under existing OST precedent.

Rao et al 20. Akhil, Matthew Burgess, and Daniel Kaffine \*Department of Economics, Middlebury College, Middlebury \*\*Cooperative Institute for Research in Environmental Sciences, University of Colorado, Environmental Studies Program, and Department of Economics \*\*\*Department of Economics. 2020 [PNAS, “Orbital-use fees could more than quadruple the value of the space industry,” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7293599/>] Justin

The space industry’s rapid recent growth represents the latest tragedy of the commons. Satellites launched into orbit contribute to—and risk damage from—a growing buildup of space debris and other satellites. Collision risk from this orbital congestion is costly to satellite operators. Technological and managerial solutions—such as active debris removal or end-of-life satellite deorbit guidelines—are currently being explored by regulatory authorities. However, none of these approaches address the underlying incentive problem: satellite operators do not account for costs they impose on each other via collision risk. Here, we show that an internationally harmonized orbital-use fee can correct these incentives and substantially increase the value of the space industry. We construct and analyze a coupled physical–economic model of commercial launches and debris accumulation in low-Earth orbit. Similar to carbon taxes, our model projects an optimal fee that rises at a rate of 14% per year, equal to roughly $235,000 per satellite-year in 2040. The long-run value of the satellite industry would more than quadruple by 2040—increasing from around $600 billion under business as usual to around $3 trillion. In contrast, we project that purely technological solutions are unlikely to fully address the problem of orbital congestion. Indeed, we find debris removal sometimes worsens economic damages from congestion by increasing launch incentives. In other sectors, addressing the tragedy of the commons has often been a game of catch-up with substantial social costs. The infant space industry can avert these costs before they escalate.

In 2017, 466 new satellites were launched—more than double the previous year’s launches and more than 20% of all active satellites in orbit in 2017 (1, 2). Rapid space industry growth is projected to continue, driven largely by commercial satellites (Fig. 1). This growth is driving buildup of debris in low-Earth orbit, currently including over 15,000 objects (3). Collision risk from debris is costly; collisions damage or destroy expensive capital assets that are difficult or impossible to repair. Debris buildup could eventually make some low-Earth orbits economically unviable and other orbits difficult or impossible to access (4). In the worst case—although uncertain and occurring over long time sshorizons—debris growth could become self-sustaining due to collisions between debris objects, a tipping point called Kessler Syndrome (4, 5).

Proposed solutions have so far largely been technological and managerial, aimed at mapping, avoiding, and removing debris (6, 7). These include end-of-life deorbit guidelines and “keep out” zones for active satellites and nets, harpoons, and lasers to deorbit debris (6). However, with open access to orbits, reducing debris and collision risk incentivizes additional satellite launches, which eventually restore the debris and risk. For instance, if firms were willing to tolerate a 0.1% annual risk of satellite loss before a technological improvement in debris removal, they will be willing to launch more satellites until the 0.1% annual risk of satellite loss was restored.

Thus, the core of the space debris problem is incentives, not technology. Since satellite operators are unable to secure exclusive property rights to their orbital paths or recover collision-related costs imposed by others, prospective operators face a choice between launching profitable satellites, thereby imposing current and future collision risk on others, or not launching and leaving those profits to competitors. This is a classic tragedy of the commons problem (1, 3, 8, 9). It can be economically efficiently addressed via incentive-based solutions, such as fees or tradable permits per year in orbit, analogous to carbon taxes or cap and trade (8, 10–12). Incentives should target objects in orbit—rather than launches—because orbiting objects are what directly imposes collision risk on other satellites (13). We quantify the economic benefits of implementing such incentives to correct the underlying open-access problem.

We use a coupled physical–economic model combining rich physical dynamics with satellite economics to quantify the benefits of an internationally harmonized “orbital-use fee” (OUF) relative to a business as usual (BAU) open-access scenario and relative to a scenario with active debris removal. An OUF is a type of Pigouvian tax—a well-known economic instrument for addressing externality problems (14). Our model accounts for the effects of each scenario on satellite launch decisions (Materials and Methods and SI Appendix). While we focus on an OUF for analytical convenience, it is conceptually equivalent to other mechanisms for pricing orbits, such as tradable permits.

Our physical model of satellite and debris evolution in orbit obeys relevant accounting identities and utilizes reduced form approximations of physical processes validated in other works (15, 16). We fit and calibrate the model using data on collision risk and orbital debris from the European Space Agency (ESA) (17) and data on active satellites from the Union of Concerned Scientists (UCS) (2) (Materials and Methods and SI Appendix). The ESA dataset covers 1958 to 2017, and the UCS dataset covers 1957 to 2017. Our physical model assumes runaway debris growth (Kessler Syndrome) cannot occur, which likely leads our model to understate the benefits of OUFs (Materials and Methods). Our economic model assumes that satellites are launched and operated to maximize per satellite private profits, net of any fees, subject to collision risk. We calibrate the model by fitting the BAU scenario (no fees or debris removal) to historical industry data and launch trends (1, 2) (Materials and Methods and SI Appendix).

We project future launch rates to 2040 under the BAU scenario using our fitted model and published projections of future growth of the space economy (18). The projections in ref. 18 were developed by projecting how the industries constituting the space sector—telecommunications, imaging, etc.—would grow from 2017 to 2040 under different assumptions on their individual profitability over time, then aggregating up to obtain projections for the space sector. We then calculate launch rates that would maximize the long-run value of the industry, and we calculate the time series of OUFs that would incentivize these optimal launch rates. The industry value is measured as net present value (NPV)—the long-run value of the entire fleet of satellites in orbit, accounting for both the financial costs of replacing satellites due to natural retirement and collisions as well as the opportunity cost of investing funds in satellites rather than capital markets. For instance, an NPV of $1 trillion in 2020 means the sum total of the stream of net benefits, looking from 2020 into the future and accounting for the timing of the net benefits, is $1 trillion.

Although our models are deliberately simplified for tractability, they are based on previously validated approaches to orbital object modeling (15, 16), and our calibrations allow us to reproduce observed trends and magnitudes in the growth of orbital debris and satellite stocks as well as the calculated collision risk (Fig. 3). Nonetheless, our projections should be interpreted as order of magnitude approximations that can be refined as needed by more detailed models. In these respects, our approach mirrors integrated assessment modeling approaches that have been useful in developing solutions to other natural resource management problems (e.g., ref. 19).

RESULTS

We project that shifting from open access to the optimal series of OUFs in 2020 would increase the NPV of the satellite industry from around $600 billion under BAU to around $3 trillion—a more than 4-fold increase (4.18- to 6.49-fold increases in 95% of parameter sets randomly drawn from their calibrated distributions) (Fig. 2D). Assuming a 5% market rate of return, an increase of $2.5 trillion in NPV would be equivalent to annual benefits of approximately $120 billion in perpetuity. The large immediate increase in NPV that we project in each OUF scenario, relative to BAU (Fig. 2A), comes primarily from the immediate effect of reducing launch activity while the satellite and debris stocks are suboptimally high (SI Appendix).

Based on our calculations (Materials and Methods), the optimal OUF starts at roughly $14,900 per satellite-year in 2020 and escalates at roughly 14% per year (aside from some initial transition dynamics) to around $235,000 per satellite-year in 2040. Rising optimal price paths are common in environmental pricing such as carbon taxes (20), although declining optimal price paths are also possible (21). The rising price path in this case partly reflects the rising value of safer orbits (resulting in rising industry NPV) (Fig. 2A) from the OUF. For comparison, the average annual profits of operating a satellite in 2015 were roughly $2.1 million. The 2020 and 2040 OUF values we describe amount to roughly 0.7 and 11% of average annual profits generated by a satellite in 2015.

Forgone NPV from the satellite industry in 2040—which is the cost of inaction under BAU—escalates from around $300 billion if optimal management begins in 2025 to around $700 billion if optimal management begins in 2035. Without OUFs, losses remain substantial even when active debris removal (implemented in the model as removal of 50% of debris objects in orbit each year) is available. In a best-case analysis where we assume debris removal is costless (i.e., it requires no payments nor additional satellites to implement), debris removal can only recover up to 9.5% of the value lost under open access. (The satellite industry’s willingness to pay for debris removal is not easily calculable in our model [SI Appendix, section 1.9.2].) At worst, debris removal can exacerbate orbital congestion via a rebound-type effect, causing additional losses on the order of 3% of the value already lost from open access (Fig. 4 and SI Appendix). The inability of debris removal to induce efficient orbit use is driven by open-access launching behavior and underscores the importance of policies to correct economic incentives to launch satellites.

DISCUSSION

The costly buildup of debris and satellites in low-Earth orbit is fundamentally a problem of incentives—satellite operators currently lack the incentives to factor into their launch decisions the collision risks their satellites impose on other operators. Our analysis suggests that correcting these incentives, via an OUF, could have substantial economic benefits to the satellite industry, and failing to do so could have substantial and escalating economic costs.

Escalating costs of inaction are a common feature of the tragedy of the commons, evident in several other sectors in which it went unaddressed for lengthy periods (22). For example, tens of billions of dollars in net benefits are lost annually from open-access or poorly managed fisheries globally (23). Similarly, open access to oil fields in the United States at the turn of the century drove recovery rates down to 20 to 25% at competitively drilled sites, compared with 85 to 90% potential recovery under optimal management (24). Open access to roadways—somewhat analogous to orbits—is estimated to create traffic congestion costs in excess of $120 billion/y in the United States alone (25). In contrast, there is still time to get out ahead of the tragedy of the commons in the young space industry.

The international and geopolitically complex nature of the space sector poses challenges to implementing orbital-use pricing systems, but these challenges need not be insurmountable. Theory suggests countries could each collect and spend OUF revenues domestically, without losing economic efficiency, as long as the fee’s magnitude was internationally harmonized (20). Engaging in such negotiations would be in the economic interests of all parties involved (26). An example of such a system is the Vessel Day Scheme (VDS) used by the Parties to the Nauru Agreement (PNA) to manage tuna fisheries. Under the VDS, PNA countries each lease fishing rights within their waters, using a common price floor (27). The European Union’s Emissions Trading System provides an example of an internationally coordinated tradable permit system (28). Notably, each of these pricing programs is built on a preexisting international governance institution (the Nauru Agreement and the European Union).

An OUF could also be built within existing space governance institutions, such as the Outer Space Treaty (29). For example, Article VI states that countries supervise their space industries, which provides a framework for OUFs to be administered nationally. Article II prohibits national appropriation of outer space but does not prohibit private property rights, potentially allowing for tradable orbital permitting.

#### The CP avoids the DA because it doesn’t re-interpret the non-appropriation principle, but it’s also more consistent with the aff’s Kant framework. Actors don’t intend to own space debris, so the neg legal framework which does not classify that debris as property is more consistent with respect for agents’ intent.

## 3

### FW

#### The standard is consistency with utilitarianism

#### 1] Actor specificity – Util is the only moral system available to policymakers. Even if the government uses Kant right now doesn’t mean they should. Goodin 95

Robert E. Goodin 95 [professor of government at the University of Essex, and professor of philosophy and social and political theory at Australian National University], “Utilitarianism as a Public Philosophy”, Cambridge Studies in Philosophy and Public Policy, May 1995, BE

Consider, first, the argument from necessity. Public officials are obliged to make their choices under uncertainty, and uncertainty of a very special sort at that. All choices - public and private alike - are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, are relatively poorly informed as to the effects that their choices will have on individuals, one by one. What they typically do know are generalities: averages and aggregates. They know what will happen most often to most people as a result of their various possible choices. But that is all. That is enough to allow public policy-makers to use the utilitarian calculus - if they want to use it at all - to choose general rules of conduct. Knowing aggregates and averages, they can proceed to calculate the utility payoffs from adopting each alternative possible general rule. But they cannot be sure what the payoff will be to any given individual or on any particular occasion. Their knowledge of gener- alities, aggregates and averages is just not sufficiently fine-grained for that.

#### 2] Pleasure and pain are intrinsically valuable.

**Moen 16** [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] SJDI, brackets in original

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for **there is something undeniably good about** the way **pleasure** feels **and** something **undeniably bad about** the way **pain** feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, **I might ask: “What for?”** This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “**But** what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the **pleasure is not good for anything further;** it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: **“We never ask** [a man] **what his end is in being pleased, because** we assume that **pleasure is** choice **worthy in itself.”**4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value.**

#### 3] The assumption that there are self-evident truths is the basic error of Kantian metaethics. A pragmatic, intersubjective conception of truth is preferable.

**Habermas ’98 -** Jurgen Habermas [Former Chair of Philosophy and Sociology, Johann Wolfgang Goethe University Frankfurt am Main Institute for Social Research, Permanent Visiting Professor at Northwestern University, "Theodor Heuss Professor" at The New School, New York.], The Inclusion of the Other: Studies in Political Theory. Cambridge: MIT Press (1998), p. 36-37 AT

A sentence or proposition is justified on the semantic conception if it can be derived from basic sentences according to valid rules of inference, where a class of basic sentences is distinguished by specific (logical, epistemological, or psychological) criteria. But the foundationalist assumption that there exists such a class of basic sentences whose truth is immediately accessible to perception or to intuition has not withstood linguistic arguments for the holistic character of language and interpretation: every justification must at least *proceed from* a pre-understood context or background understanding. This failure of foundationalism recommends a pragmatic conception of justification as a public practice in which criticizable validity claims can be defended with good reasons. Of course, the criteria of rationality that determine which reasons count as good reasons can themselves be made a matter for discussion. Hence procedural characteristics of the process of argumentation itself must ultimately bear the burden of explaining why results achieved in a procedurally correct manner enjoy the presumption of validity. For example, the communicative structure of rational discourse can ensure that all relevant contributions are heard and that the unforced force of the better argument alone determines the “yes” and “no” responses of the participants.¶ The pragmatic conception of justification opens the way from an epistemic concept of truth that overcomes the well-known problems with the correspondence theory. The truth predicate refers to the language game of justification, that is, to the public redemption of validity claims. On the other hand, truth cannot be identified with justifiability or warranted assertability. The “cautionary” use of the truth predicate – regardless of how well “p” is justified, it still may not be true – highlights the difference in meaning between “truth” as an irreducible property of statements and “rational acceptability” as a context-dependent property of utterances. This difference can be understood within the horizon of possible justifications in terms of the distinction between “justified in our context” and “justified in every context.” This difference can be cashed out in turn through a weak idealization of our processes of argumentation, understood as capable of being extended indefinitely over time. When we assert “p” and thereby claim truth for “p” we accept the obligation to defend “p” in argumentation – in full awareness of its fallibility – against all future objections.

#### 4] Collapses to util: Moreover, maximizing utility is the only way to affirm equal and unconditional human dignity.

**Cummiskey ’90 -** David Cummiskey. [Associate Philosophy Professor at Bates College].Kantian Consequentialism. Ethics, Vol. 100, No. 3. 1990. <http://www.jstor.org/stable/2381810>.

We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.” Instead, the question is whether some persons must bear the inescapable cost for the sake of other persons. Robert Nozick, for example, argues that “to use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has.” But why is this not equally true of all those whom we do not save through our failure to act? **By emphasizing solely the one who must bear the cost if we act, we fail to** sufficiently **respect** and take account of **the many other separate persons**, **each with only one life, who will bear the cost of our inaction.** In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself” (GMM 429). Rational nature as such is the supreme objective end of all conduct. **If one** truly **believes** that **all rational beings have** an **equal value**, then **the** rational **solution** to such a dilemma **involves maximally promoting the lives and liberties of as many** rational beings **as possible** (chapter 5). In order to avoid this conclusion, the non-consequentialist Kantian needs to justify agent-centered constraints. As we saw in chapter 1, however, even most Kantian deontologists recognize that agent-centered constraints require a non- value-based rationale. But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? **If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? If I sacrifice some for the sake of others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. Persons may have “dignity**, **that** is, an unconditional and incomparable worth” that **transcends** any **market value** (GMM 436), **but persons also have a fundamental equality that dictates that some must sometimes give way for the sake of others** (chapters 5 and 7). The concept of the end-in-itself does not support the view that we may never force another to bear some cost in order to benefit others. If one focuses on the equal value of all rational beings, then equal consideration suggests that one may have to sacrifice some to save many.

#### 6] Deontology fails to account for the unchosen moral demands of particular identities and so fails to account for indispensable aspects of the moral experience.

**Sandel ’98 -** Michael J. Sandel [Professor of Political Philosophy, Harvard University], Liberalism and the Limits of Justice: Second Edition. Cambridge: Cambridge University Press (1998). P. 178-179 AT

If the deontological ethic fails to redeem its own liberating promise, it also fails plausibly to account for certain indispensable aspects of our moral experience.For **deontology insists that we view ourselves as** independent selves, **independent in the sense that our identity is never tied to our aims and attachments.** Given our ‘moral power to form, to revise, and rationally to pursue a conception of the good’ (Rawls 1980: 544), the continuity of our identity is unproblematically assured. No transformation of my aims and attachments could call into question the person I am, for no such allegiances, however deeply held, could possibly engage my identity to begin with.

**But we cannot regard ourselves as independent in this way without great cost to those loyalties and convictions whose moral force consists partly in the fact that living by them is inseparable from understanding ourselves as the particular persons we are - as members of this** family or **community or nation or people,** as bearers of this history, as sons and daughters of that revolution, as citizens of this republic. **Allegiances such as these are more than values I happen to have** or aims I ‘espouse at any given time’. **They go beyond the obligations I voluntarily incur** and the ‘natural duties’ I owe to human beings as such. **They allow that to some I owe more than justice requires or even permits, not by reason of agreements I have made but instead in virtue of those** more or less **enduring attachments** and commitments **which** taken togetherpartly **define the person I am.**

**To imagine a person incapable of constitutive attachments such as these is not to conceive an ideally free and rational agent, but to imagine a person wholly** without character, **without moral depth. For to have character is to know that I move in a history I neither summon nor command, which carries consequences none the less for my choices** and conduct.It draws me closer to some and more distant from others; it makes some aims more appropriate, others less so. **As a self-interpreting being, I am able to reflect on my history and in this sense to distance myself from it, but the distance is always precarious and provisional, the point of reflection never finally secured outside the history itself. A person with character thus knows that he is implicated in various ways even as he reflects, and feels the moral weight of what he knows.**

## 4

### OST DA

#### OST Credibility is high now

Stuart 17 Jill Stuart 1-27-2017 "The Outer Space Treaty has been remarkably successful – but is it fit for the modern age?" <https://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381> (Visiting Fellow, Department of Government, London School of Economics and Political Science)//Elmer

Space exploration is governed by a complex series of international treaties and agreements which have been in place for years. The first and probably most important of them celebrates its 50th anniversary on January 27 – The Outer Space Treaty. This treaty, which was signed in 1967, was agreed through the United Nations, and today it remain as the “constitution” of outer space. It has been signed and made official, or ratified, by 105 countries across the world. The treaty has worked well so far but challenges have increasingly started to crop up. So will it survive another 50 years? The Outer Space Treaty, like all international law, is technically binding to those countries who sign up to it. But the obvious lack of “space police” means that it cannot be practically enforced. So a country, individual or company could simply ignore it if they so wished. Implications for not complying could include sanctions, but mainly a lack of legitimacy and respect which is of importance in the international arena. However it is interesting that, over the 50 years of it’s existence, the treaty has never actually been violated. Although many practical challenges have been made – these have always been made with pars of the treaty in mind, rather than seeking to undermine it entirely.

#### The aff expansively re-interprets the non-appropriation principle to include quasi-property like “debris.” This extremely broad scope stretches the OST beyond meaning and chills legitimate scientific investigations.

Elvis et al. 16

Martin Elvis (Harvard-Smithsonian Center for Astrophysics), Tony Milligan (Department of Theology and Religious Studies, King’s College, London), and Alanna Krolikowskic (Georg-August Universität Göttingen, Germany). “The Peaks of Eternal Light: a Near-term Property Issue on the Moon.” 2016. JDN. https://arxiv.org/ftp/arxiv/papers/1608/1608.01989.pdf

3. A TENSION WITHIN THE OUTER SPACE TREATY

The Outer Space Treaty3 (OST) Article II states (in full) that: “Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” This seems clear, and it is not our intention to play upon the familiar skewing of the dominant sense of the Treaty by appealing to the fact that the envisaged appropriating agents, at the time of its drafting, were nations rather than private commercial enterprises. Both are, explicitly or by implication, excluded in favor of a shared claim made on behalf of humanity at large.

However, OST Article XII states (in full) that: “All stations, installations, equipment and space vehicles on the moon and other celestial bodies shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity. Such representatives shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.”

There are (at least) three background principles brought into play here, principles of openness, reciprocity and precaution. How best to formulate and prioritize these principles is unclear. It does seem that it will be difficult to do so in a way that remains faithful to the text while avoiding all possible cases of conflict between the principles themselves. Indeed, the appeals to openness and reciprocity on the one hand and precaution on the other, do not sit well together. Openness and reciprocity suggest that there shall be a system of access to all areas and facilities. However, if a country, or organization, were to set up a delicate scientific experiment it might be impossible for any visitors to approach it without interfering with its normal operations. The precautionary principle, at least on a strong reading, would then clash with the other principles. Experimental integrity would clash with openness and with reciprocity as well (assuming that the agents conducting the experiment would still retain their entitlements with regard to the sites of other agents operating elsewhere on the lunar surface).

If the precautionary principle were regarded as trumps then, in all but name, the experiment site would have become effectively “owned” by the country setting up the experiment or, if not owned, at least legally appropriated. **A de facto “quasi-property” status might** well **be accepted**, especially if there were no push to formalize matters. At the PELs though, **one scientific appropriation could pre-empt another.** E.g. the area would not be available to provide solar power for an exploration of the permanently dark craters nearby. Nor would it be available for any industrial use of their water deposits. (And here, there are also likely to be disagreements about the respective importance of lunar science and any prospective industrial exploitation.)

True, such appropriation would not erase all occupancy-related obligations and requirements, but claims of property are themselves not absolute in this regard. They too are subject to all manner of legal constraints. Property comes with liabilities and vulnerabilities to legal seizure. The suggestion, then, is not that existing international treaties might be circumvented in order to set up an effective claim (in the manner of Dinkin, 2004 [18]) but rather that when a precautionary principle was introduced into space law, it was not formulated with an eye towards the grey boundary which separates out property from non-property, a boundary which is far less sharp than we might imagine.

Two problems then seem to emerge. Firstly, is this a plausible or merely convenient reading of the OST? Secondly, is there any realistic experiment that could bring the precautionary principle into play in an authoritative manner? (If the experiment was deemed to be pseudo-science any appeal to the precautionary principle might then carry little weight.) Additionally, we may wonder whether or not the setting up of such an experiment could be feasible in the short-term, **making its consideration urgent.**

#### Space-based science research is key to health and wellbeing globally

Shelhamer et al. 20

Mark Shelhamer, Jacob Bloomberg, Adrian LeBlanc, G. Kim Prisk, Jean Sibonga, Scott M. Smith, Sara R. Zwart & Peter Norsk (assorted medley of professors and NASA scientists). “Selected discoveries from human research in space that are relevant to human health on Earth.” Microgravity volume 6, Article number: 5 (2020). JDN. https://www.nature.com/articles/s41526-020-0095-y

A substantial amount of life-sciences research has been performed in space since the beginning of human spaceflight. Investigations into bone loss, for example, are well known; other areas, such as neurovestibular function, were expected to be problematic even before humans ventured into space. Much of this research has been applied research, with a primary goal of maintaining the health and performance of astronauts in space, as opposed to research to obtain fundamental understanding or to translate to medical care on Earth. Some people—scientists and concerned citizens—have questioned the broader scientific value of this research, with the claim that the only reason to perform human research in space is to keep humans healthy in space. Here, we present examples that demonstrate that, although this research was focused on applied goals for spaceflight participants, the results of these studies are of **fundamental scientific and biomedical importance.** We will focus on results from bone physiology, cardiovascular and pulmonary systems, and neurovestibular studies. In these cases, findings from spaceflight research have provided a foundation for **enhanc**ing **healthcare terrestrially** and have increased our knowledge of basic physiological processes.

#### Independently, it spills over to shred credibility of the OST as a whole

Pershing 19

Abigail Pershing (J.D. Candidate @ Yale, B.A. UChicago). “Interpreting the Outer Space Treaty’s Non-Appropriation Principle: Customary International Law from 1967 to Today.” Yale Journal of International Law 44, no. 1. 2019. JDN. https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1697&context=yjil

Accompanying these textual arguments, some scholars have suggested that such **a shift would not be difficult** to accomplish given the fragility and malleability of **c**ustomary **i**nternational **l**aw as it relates to space. As Wasser and Jobes point out, the United States and the Soviet Union were able to establish the basis of the customary international law for **private appropriation of extracted resources** simply by asserting ownership over moon rocks they brought back from space.120 Similarly, as to the establishment of rights to ownership of physical territory in space under customary international law, all that is needed may be “an international private settlement simply landing on and taking possession of a hunk of Lunar land.”121 Although attempting to appropriate the moon would likely generate an international outcry, it is not clear that the appropriation of a distant asteroid would incite significant protest, even though it could lay the foundation for a shift in customary international law. Significantly, such a shift may occur in State practice even if the legal arguments to support this change are weaker than the arguments supporting a continuation of the prohibition of private appropriation. Should States buckle to private commercial pressures or independently recognize the economic benefits of domestic companies obtaining private property in celestial territory, States would have a newfound interest in recognizing and protecting in situ rights. The legal justifications for de jure or de facto cooperation in non-recognition would likely become subordinate to economic incentives—spurring the adoption of new legal arguments to support shifting State interests.

IV. THE NEED FOR A NEW LEGAL ORDER

Given these trends, the international community would do well to rethink the Outer Space Treaty—and soon. **Without a clearer articulation of** what the international community agrees is **the meaning and scope of** the **nonappropriation** principle, it is entirely possible that **States will use legal arguments** like the ones outlined above **to reinterpret Article II to serve** the **commercial interests** of their domestic companies. Even in this new era of extraterrestrial enterprise, many of the norms underlying the Outer Space Treaty, such as equitable access and peaceful use, would remain important goals shared by members of the international community. Without an internationally agreed-upon principle to guide State and private practice, however, these norms could become unobtainable and the fundamental spirit of the Treaty would again be violated. As Fabio Tronchetti puts it: [I]f any subject was allowed to appropriate parts of outer space, the basic aim of the drafters of the Treaty, namely to prevent a colonial competition in outer space and to create the conditions and premises for an exploration and use of outer space carried out for the benefit of all States, would be betrayed.122

#### Amendments to the OST create runaway amendment cascades

Melroy 17 Pamela Melroy 5-23-2017 “Reopening the American Frontier: Exploring How the Outer Space Treaty Will Impact American Commerce and Settlement in Space” <https://www.hsdl.org/?abstract&did=807259> (Retired NASA Astronaut)//Elmer

There are many exciting activities and proposals in commercial space. With respect to the Outer Space Treaty, I am deeply concerned that we would be opening a Pandora’s Box by attempting to change it. My concern is that the likely outcome would be a lack of consensus, resulting in no amendments. Instead, we will have a weakened dedication to the Principles of the Treaty and the sustainability of space. Great changes are occurring and many countries are developing capabilities that previously were the purview of only a few nation states. Our ability to compete both economically and technologically in space is crucial. These Principles form the basis for the dialog that we have with other countries about what is appropriate and what is not. Without them, the dialog becomes chaos.