#### Appropriation is establishing property rights in something formerly un-owned

Dominiak 17

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Ownership1, or **property**, on the other hand **is a normative concept**. To own a thing is to have a right to possess it, i.e. to be in such a juridical position that one’s claim to deal with the thing at will is a justified claim whereas claims of other persons are unjustified or less justified than the owner’s. As Barnett puts it, “rights are those claims a person has to legal enforcement that are justified, on balance, by the full constellation of relevant reasons, whether or not they are actually recognized and enforced by a legal system” (2004). To recognise someone’s ownership is therefore to assert that his possession of a thing is just, rightful, lawful, licit or reasonable etc., is to conclude that he ought to possess the thing if such is his will, even if he actually does not possess it. As Kinsella writes, “ownership is the right to control, use, or possess, while possession is actual control” (2009). Thus, ownership is a threefold normative or juridical relation between the owner, the thing owned and the rest of mankind such as the owner may control the thing to the exclusion of others because he has the best title to do it. Hence, **the distinction between possession and ownership** is a distinction between factual and normative relation.

Having drawn the above distinction between possession and ownership, we are ready to define original appropriation. Thus, original appropriation is acquiring ownership of unowned things. To originally appropriate is to establish property rights, i.e. justified claims to physical things that at the moment of acquisition are unowned. What is important to underline again, is that original **appropriation is not about taking factual possession** of things that are unpossessed or unowned – this process is called occupation and can be conceived as one of the possible investitive facts that can result in original appropriation but should not be confounded with the latter. Neither is it about acquiring ownership of things already owned. **It is about instituting new property rights** to unowned things. As Nozick puts it, the topic of “original acquisition of holdings, the appropriation of unheld things includes the issues of how unheld things may come to be held” (2014), i.e. come to be owned. Hence, original appropriation is about creating normative relations between persons and things.

## 1

### T

#### A topical affirmative must defend a theory of fair distributions

#### They violate—the plan uses the normative term “should”

#### First—precision. Justice is distinct from and narrower than morality. Defending that the plan is moral does not make it just.

Swain 20

Dan Swain (Assistant professor of philosophy and social sciences at the Czech University of Life Sciences in Prague; research fellow at the Institute of Philosophy of the Czech Academy of Sciences). “None so Fit to Break the Chains: Marx's Ethics of Self-Emancipation.” Haymarket Books (October 6, 2020). JDN.

It is worth noting that this entire controversy only makes sense if what is meant by justice is something more specific than simply questions of right or wrong. Indeed, one of the ways in which this debate gets distorted is the sense that justice, in this sense, exhausts normative political theory. There is a marked tendency in some writings to assume that any substantive social wrong must ultimately boil down to a question of (in)justice. Increasingly, it becomes taken for granted that to say something **is unjust** and to condemn it are synonymous. For example, Nielsen, in attacking Wood’s arguments that Marx rejects the language of justice, suggests that this debate might merely be a ‘trivial verbal one’.20 Since Wood accepts that Marx condemns capitalism as severely unequal and exploitative he ‘must agree … that capitalism is indeed, in the plain untechnical sense of the term, an unjust social system’.21 Perhaps it is a symptom of too much political philosophy, but it is entirely unclear to me what the ‘plain, untechnical sense’ of justice is. Of course, if justice is defined differently, either less narrowly concerned with distribution, or more specifically concerned with domination, democracy and power, capitalist exploitation may be more easily integrated into a justice account. Young herself, for example, wants to hold on to the word justice but stresses that domination and oppression should be the primary terms in which it is thought of.22 However, in the main **discussions of justice remain dominated by distributive language**, and in particular by Rawls and the various variations and developments of his core approach.23 In any case, there is a **real difference** between saying something is wrong because it is unjust and saying it is wrong because it denies freedom (or indeed because it is heretical, illiberal, evil, lacks solidarity or many other terms of condemnation).

Thus, in denying that exploitation is a matter of justice, I am arguing three things: Firstly, it is not a question of an unfair, unjust or unequal transaction or exchange. Secondly, it is not a matter of distribution, either of starting point or outcome. Thirdly, it is not based on fundamental and universal principles that are derivable independently of given social conditions and integrated into a complete and over-arching theory.24

#### Second, education—most LD topics already use “ought” so any education gained from having one more util-deont debate is redundant and non-unique. This topic offers a chance to delve into unique and novel theories of fairness and distributive justice that their interp forecloses.

#### Third, the TVA—you can still read your China plan. You just need to use “unjust” as the evaluative term in the plan and support it with a theory of just distributions.

#### Drop the debater—T is a prima facie burden and it’s too late to redo the 1NC after the 1AR shifts.

## 2

### CP

#### Counterplan: The People’s Republic of China should

#### not invade Taiwan

#### not deploy ground- or space-based weapons

#### de-orbit all existing satellites with the capability to destroy other satellites

#### cease all ASATs testing

#### abide by all existing arms control agreements it is a signatory to and privately communicate that to all members of the United Nations

#### cease all cooperation with the Russian Federation on space exploration, ground- and space-based weapons development and deployment, and weapons testing

#### privately communicate all research developments, findings, and data related to satellites and space exploration that Chinese firms discover to the United States

#### cease cyberattacks and the theft of IP from US firms

#### initiate cyberattacks on private and public entities in the Russian Federation

#### privately give the United States exclusive use of Chinese manufacturing companies to develop new space technology

#### cease all military operations in the South China Sea, East China Sea, and near Taiwan and redeploy those military assets to monitor the Russian Pacific and Northern Fleets

#### The counterplan solves better than the aff does and link turns both the Heg and Russia impacts. Instead of having China constrain itself, it has China use its powers to become actively complicit with the US and challenge the rise of Russia. Fiat guarantees compliance and is reciprocal with aff fiat.

## 3

### PIC

#### In the People’s Republic of China, only the appropriation of outer space by private entities for novelty gifts is just.

#### Buying an acre on the moon is a fun gift for people from all walks of life.

Lunar Land ND

(Lunar Land was formed for the direct marketing of real estate for Land on the Moon and Planet Mars Land. As premier authorized agents of the International Association Of Human Planetary Exploration (IAOHPE), our team of professionals is driven to make your purchase of Moon property a most pleasant and rewarding experience. Lunar Land is dedicated in keeping you up to date with the latest information concerning your purchase as well as special offers brought to you only by Lunar Land. All records of Lunar Land Registry will be stored at the International Association Of Human Planetary Exploration (IAOHPE). In the near future, Lunar Land will be bringing other celestial lands in our Solar System to market. Due to possible limited availability, current Lunar Land owners will be notified first when other lands become available, in order to reserve future properties. Please join our newsletter for more information about the Lunar Land’s future projects. Lunar Land is staffed with Customer Service Representatives dedicated to assisting you in any manner and all inquires will be responded to within a 24 hr period. Most matters are handled immediately.), Homepage, LunarLand.com, NCS, DOA 1/15/22, <https://lunarland.com/>

DON'T MISS OUT ON THE LUNAR LAND RUSH! It is true! You too can become a Lunar Land Owner by purchasing acres of land on the Moon. LUNAR LAND company is the world’s most recognized Celestial Real Estate Agency and has been selling land on the Moon for decades. Lunar Land is one of THE FIRST companies in the world to file for a legal TRADEMARK and COPYRIGHT for the sale of extraterrestrial property within the confines of our solar system. Don't miss out on this unique opportunity to get your very own piece of land on the moon today! Lunar Land BUYING LAND ON THE MOON IS THE PERFECT GIFT Give the gift that is loved by over 250 very well known celebrities, more than 30 past and present members of NASA, 2 former US Presidents and millions of everyday people from around the world. What could be a greater gift than giving someone an acre of the Moon? Many fortune 500 corporations such as the Marriott have purchased thousands of acres of Lunar Land for investment purposes. For the average person a one acre parcel of Land on the Moon is an excellent gift and great conversation piece!

#### It solves the aff. Novelty gifts are not useful for challenging the hegemony of foreign powers.

# AC

### Presumption

#### I’m going for presumption because this plan is actually just a lie and their understanding of the topic is entirely wrong.

#### There is not a single link in a single card in the aff that has the slightest to do with private *appropriation* of outer space.

#### That is a term of art that specifically refers to private *ownership* of property in space.

Bohm 13 [JEFF BOHM, Chief Judge. In re Cowin, 492 B.R. 858 (Bankr. S.D. Tex. 2013).] TDI

1. Application of the Facts in the Instant Disputes to Embezzlement under Section 523(a)(4)

(i) "The Debtor appropriated funds." "Appropriation" is defined as "the exercise of control over property; a taking of possession." BLACK'S LAW DICTIONARY 98 (7th ed. 1999). In connection with its analysis under the TTLA in section C.2.b., supra, this Court has determined that the Debtor appropriated the excess proceeds from the foreclosure sales of the Countrywide Property, the Chase Property, and the WMC Property that rightfully belonged to the Plaintiffs. Not only did the Debtor control the disposition of the excess proceeds via the WCL and Dampkring Deeds of Trust, but he ensured that the proceeds were deposited to Perc and TRH, entities controlled by his co-conspirator Allan Groves. Thus, the first element is satisfied.

(ii) "The appropriation was for the Debtor's use or benefit." This element does not require a showing that the Debtor himself personally benefitted by the amounts that the Plaintiffs were damaged. For example, in affirming a bankruptcy court's decision that a debt was nondischargeable due to embezzlement under section 523(a)(4), the Sixth Circuit stated:

#### That’s specifically true of space law

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“Appropriation of outer space, therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence, which limits other nations’ access to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

#### And, court precedent agrees

Marshall 82 [JUSTICE MARSHALL delivered the opinion of the Court. Loretto v. Teleprompter Manhattan CATV Corp., 458 US 419 - Supreme Court 1982] TDI

Since these early cases, this Court has consistently distinguished between flooding cases involving a permanent physical occupation, on the one hand, and cases involving a more temporary invasion, or government action outside the owner's property that causes consequential damages within, on the other. A taking has always been found only in the former situation. See United States v. Lynah, 188 U. S. 445, 468-470 (1903); Bedford v. United States, 192 U. S. 217, 225 (1904); United States v. Cress, 243 U. S. 316, 327-328 (1917); Sanguinetti v. United States, 264 U. S. 146, 149 (1924) (to be a taking, flooding must "constitute an actual, permanent invasion of the land, amounting to an appropriation of, and not merely an injury to, the property"); United States v. Kansas City Life Ins. Co., 339 U. S. 799, 809-810 (1950). In St. Louis v. Western Union Telegraph Co., 148 U. S. 92 (1893), the Court applied the principles enunciated in Pumpelly to a situation closely analogous to the one presented today. In that case, the Court held that the city of St. Louis could exact reasonable compensation for a telegraph company's placement of telegraph poles on the city's public streets. The Court reasoned: "The use which the [company] makes of the streets is an exclusive and permanent one, and not one temporary, shifting and in common with the general public. The ordinary traveler, whether on foot or in a vehicle, passes to and fro along the streets, and his use and occupation 429\*429 thereof are temporary and shifting. The space he occupies one moment he abandons the next to be occupied by any other traveller. . . . But the use made by the telegraph company is, in respect to so much of the space as it occupies with its poles, permanent and exclusive. It as effectually and permanently dispossesses the general public as if it had destroyed that amount of ground. Whatever benefit the public may receive in the way of transportation of messages, that space is, so far as respects its actual use for purposes of highway and personal travel, wholly lost to the public. . . . ..... ". . . It matters not for what that exclusive appropriation is taken, whether for steam railroads or street railroads, telegraphs or telephones, the state may if it chooses exact from the party or corporation given such exclusive use pecuniary compensation to the general public for being deprived of the common use of the portion thus appropriated." Id., at 98-99, 101-102 (emphasis added).[6] Similarly, in Western Union Telegraph Co. v. Pennsylvania R. Co., 195 U. S. 540 (1904), a telegraph company constructed and operated telegraph lines over a railroad's right of way. In holding that federal law did not grant the company the right of eminent domain or the right to operate the lines absent the railroad's consent, the Court assumed that 430\*430 the invasion of the telephone lines would be a compensable taking. Id., at 570 (the right-of-way "cannot be appropriated in whole or in part except upon the payment of compensation"). Later cases, relying on the character of a physical occupation, clearly establish that permanent occupations of land by such installations as telegraph and telephone lines, rails, and underground pipes or wires are takings even if they occupy only relatively insubstantial amounts of space and do not seriously interfere with the landowner's use of the rest of his land. See, e. g., Lovett v. West Va. Central Gas Co., 65 W. Va. 739, 65 S. E. 196 (1909); Southwestern Bell Telephone Co. v. Webb, 393 S. W. 2d 117, 121 (Mo. App. 1965). Cf. Portsmouth Harbor Land & Hotel Co. v. United States, 260 U. S. 327 (1922). See generally 2 J. Sackman, Nichols' Law of Eminent Domain § 6.21 (rev. 3d ed. 1980).[7] More recent cases confirm the distinction between a permanent physical occupation, a physical invasion short of an occupation, and a regulation that merely restricts the use of property. In United States v. Causby, 328 U. S. 256 (1946), the Court ruled that frequent flights immediately above a landowner's property constituted a taking, comparing such overflights to the quintessential form of a taking: "If, by reason of the frequency and altitude of the flights, respondents could not use this land for any purpose, their loss would be complete. It would be as complete as if the United States had entered upon the surface of the land and taken exclusive possession of it." Id., at 261 (footnote omitted). 431\*431 As the Court further explained, "We would not doubt that, if the United States erected an elevated railway over respondents' land at the precise altitude where its planes now fly, there would be a partial taking, even though none of the supports of the structure rested on the land. The reason is that there would be an intrusion so immediate and direct as to subtract from the owner's full enjoyment of the property and to limit his exploitation of it." Id., at 264-265. The Court concluded that the damages to the respondents "were not merely consequential. They were the product of a direct invasion of respondents' domain." Id., at 265-266. See also Griggs v. Allegheny County, 369 U. S. 84 (1962). Two wartime takings cases are also instructive. In United States v. Pewee Coal Co., 341 U. S. 114 (1951), the Court unanimously held that the Government's seizure and direction of operation of a coal mine to prevent a national strike of coal miners constituted a taking, though members of the Court differed over which losses suffered during the period of Government control were compensable. The plurality had little difficulty concluding that because there had been an "actual taking of possession and control," the taking was as clear as if the Government held full title and ownership. Id., at 116 (plurality opinion of Black, J., with whom Frankfurter, Douglas, and Jackson, JJ., joined; no other Justice challenged this portion of the opinion). In United States v. Central Eureka Mining Co., 357 U. S. 155 (1958), by contrast, the Court found no taking where the Government had issued a wartime order requiring nonessential gold mines to cease operations for the purpose of conserving equipment and manpower for use in mines more essential to the war effort. Over dissenting Justice Harlan's complaint that "as a practical matter the Order led to consequences no different from those that would have followed the temporary acquisition of physical possession of these mines by the United States," id., at 181, the Court reasoned that "the Government did not occupy, 432\*432 use, or in any manner take physical possession of the gold mines or of the equipment connected with them." Id., at 165-166. The Court concluded that the temporary though severe restriction on use of the mines was justified by the exigency of war.[8] Cf. YMCA v. United States, 395 U. S. 85, 92 (1969) ("Ordinarily, of course, government occupation of private property deprives the private owner of his use of the property, and it is this deprivation for which the Constitution requires compensation").

#### Per their own Patel evidence, the vast majority of what their own evidence is describing does not involve private ownership claims in space [APPLE VALLEY READS BLUE]

Patel 21 [(Neel, space reporter for MIT Technology Review, and I also write The Airlock newsletter, your number one source for everything happening off this planet. Before joining, he worked as a freelance science and technology journalist, contributing stories to Popular Science, The Daily Beast, Slate, Wired, the Verge, and elsewhere. Prior to that, he was an associate editor for Inverse, where I grew and led the website’s space coverage.) “China’s surging private space industry is out to challenge the US” MIT Technology Review, 1/21/2021. https://www.technologyreview.com/2021/01/21/1016513/china-private-commercial-space-industry-dominance/] BC

How did China get here—and why?

Until recently, China’s space activity has been overwhelmingly dominated by two state-owned enterprises: the China Aerospace Science & Industry Corporation Limited (CASIC) and the China Aerospace Science and Technology Corporation (CASC). A few private space firms have been allowed to operate in the country for a while: for example, there’s the China Great Wall Industry Corporation Limited (in reality a subsidiary of CASC), which has provided commercial launches since it was established in 1980. But for the most part, China’s commercial space industry has been nonexistent. Satellites were expensive to build and launch, and they were too heavy and large for anything but the biggest rockets to actually deliver to orbit. The costs involved were too much for anything but national budgets to handle.

That all changed this past decade as the costs of making satellites and launching rockets plunged. In 2014, a year after Xi Jinping took over as the new leader of China, the Chinese government decided to treat civil space development as a key area of innovation, as it had already begun doing with AI and solar power. It issued a policy directive called Document 60 that year to enable large private investment in companies interested in participating in the space industry.

“Xi’s goal was that if China has to become a critical player in technology, including in civil space and aerospace, it was critical to develop a space ecosystem that includes the private sector,” says Namrata Goswami, a geopolitics expert based in Montgomery, Alabama, who’s been studying China’s space program for many years. “He was taking a cue from the American private sector to encourage innovation from a talent pool that extended beyond state-funded organizations.”

As a result, there are now 78 commercial space companies operating in China, according to a 2019 report by the Institute for Defense Analyses. More than half have been founded since 2014, and **the vast majority focus on satellite manufacturing and launch services.**

#### Saying that satellite manufacturing or launch services counts as appropriation would be like saying that if General Motors builds a vehicle that is driven on a public highway, GM has now claimed ownership of the highway. OR, like saying that if Uber offers rideshare services two and from public locations along a public highway then Uber has a property right to own the highway.

#### Presumption is a voting issue for the neg

#### 1. The aff has failed their burden of proof. The topic makes an active statement of injustice. We don’t assume things are unjust by default absent evidence.

#### 2. It’s key to responsible policy-making. You don’t pass policies absent pro-active evidence.

#### 3. Absence of offense is offense in the opposite direction.

#### A. Legal unclarity—policies that do nothing and solve nothing add to legal ambiguity which makes it harder to solve the problem in the future.

#### B. Ruse of solvency—if the plan does nothing, then it becomes another tool China can use to pretend they’ve solved the problem when they haven’t. They can point to a paper law to prove they’re compliant with international norms while continuing to challenge US hegemony.