# ILAW

**I affirm, Resolved: The appropriation of outer space by private entities is unjust.**

**I value morality. Objective appeals to ethics fail:**

### It’s impossible to determine an objective viewpoint of experience. Reality can be vastly different to different agents, i.e. I don’t know if the blue that I see is the blue that you see because we all interpret the world in different ways.

### Each individual’s experience influences the way they interpret the truth, so even if we could have an objective view of truth that would be tainted by the subjective experiences of individuals. Additionally, objective viewpoints may tell us what is true, but it is up to subjectivity to determine how we act upon those truths, which is a side-constraint.

### Even if agents can obtain an objective viewpoint they wouldn’t be obligated to act upon those truths due to inherent subjectivity, so their subjective views must be reconciled to make moral action motivational in the first place, which is necessary because a non-motivational theory would be arbitrary.

#### Discontinuity in value necessitates moral pluralism.

**Mason 18** [Mason, Elinor, "Value Pluralism", The Stanford Encyclopedia of Philosophy (Spring 2018 Edition), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/spr2018/entries/value-pluralism/]//DDPT

John Stuart Mill suggested that there are higher and lower pleasures (Mill, 2002, p. 241), the idea being that the value of higher and lower pleasures is measured on different scales. In other words, there are discontinuities in the measurement of value. As mentioned previously, it is unclear whether we should interpret Mill as a foundational pluralist, but the notion of higher and lower pleasures is a very useful one to illustrate the attraction of thinking that there are discontinuities in value. The distinction between higher and lower pleasures allows us to say that no amount of lower pleasures can outweigh some amount of higher pleasures. As Mill puts it, it is better to be an unhappy human being than a happy pig. In other words, the distinction allows us to say that there are discontinuities in value addition. As James Griffin (1986, p. 87) puts it: “We do seem, when informed, to rank a certain amount of life at a very high level above any amount of life at a very low level.” Griffin’s point is that there are discontinuities in the way we rank values, and this suggests that there are different values.[[8](https://plato.stanford.edu/entries/value-pluralism/notes.html#note-8)] The phenomenon of discontinuities in our value rankings seems to support pluralism: if higher pleasures are not outweighed by lower pleasures, that suggests that they are not the same sort of thing. For if they were just the same sort of thing, there seems to be no reason why lower pleasures will not eventually outweigh higher pleasures.

**AND, the only way to reconcile these subjective viewpoints is through an omniperspectivist view of epistemology, which combines all subjective viewpoints to achieve the best explanation of normative truth. Since nobody can stand at an objective viewpoint the only way to find where our obligations come from is by combining each perspective to create the omniperspective, which best accounts for all subjectivity.**

### Thus, the standard is consistency with international law, which best accounts for all perspectives since it’s consistent and includes perspectives across almost the entire world so it’s the most effective way to combine all viewpoints.

**Here’s some additional reasons to prefer the standard:**

### I-Law prevents infinite regress of asking why and how a moral action or evaluation is attributable to the agent, as (a) agents consent to the contracts so the regress terminates in internal motivation because they chose to comply with the contract (b) defines the duties and boundaries of state policy which contextualizes what a state is. This indicates that I-law is a constitutive function of being a state; solves all instances of normative uncertainty because the state has a constitutive obligation to be consistent independent of morality so it can be definitionally a state.

1. **The resolutions speaks to transnational obligations as the realm of space is not limited to solely a singular state; and only I-Law can resolve those because a. It’s the only guideline to inter-state action b. States can all interpret obligations differently due to cultural and historical differences so Ilaw fills the gaps. Absent a way to break down these obligations, taking transnational action wouldn’t make sense.**

#### Unjust means opposed to law, which means that we should evaluate whether it follows the law or not.

FreeDictionary [TheFreeDictionary, Unjust, xx-xx-xxxx,https://legal-dictionary.thefreedictionary.com/Unjust, 12-17-2021 amrita]

**UNJUST.** That which is done against the perfect rights of another; that which **is against the established law**; that which is opposed to a law which is the test of right and wrong

**Also prefer the standard cause it’s the best for real world - policymakers and actors in real life all act according to norms of international law, meaning it’s a side constraint on all education voters. Real world is key because our careers don’t end as debaters, we go into the world as thinkers as well.**

**Impact analysis:**

1. **Ends-based impacts are irrelevant to my standard, which only cares about appropriate behavior in accordance with I-law, not the desirability of states of affairs around it. Compliance is unconditional for agents situated within the practice.**
2. **Counterexamples about states who don’t follow codified international norms don’t function as turns under the standard as my argument is descriptive of the constitutive nature of states, not of empirical circumstances. A. Even if conforming to international law is constitutive of states, those that don’t just fail to meet their standard of success. B. States would be internally motivated to follow international law under my standard because they would have the entirety of the perspective within the standard under an omniperspective POV C. I-LAW is a prior question to state recognition- other states will not recognize you as agents if you fail to meet your obligations as a state.**

## My sole thesis and contention is that private appropriation of property in space does not follow international law

Private appropriation is clearly outlawed under the Outer Space Treaty**- the wording of “national” applies to non-governmental applications as well.**

**Kerrest 11** Armel Kerrest (Head of the public law department of the University of Western Brittany; Chairman of the Institute of Law of International Spaces and Telecom‑ munications). ”Outer Space as International Space: Lessons from Antarctica.” in Science Diplomacy: Antarctica, Science, and the Governance of International Spaces, edited by Berkman, Paul Arthur, Lang, Michael A., Walton, David W. H., and Young, Oran R., 133–142. Smithsonian Contributions to Knowledge. 2011. JDN. https://doi.org/10.5479/si.9781935623069.133

APPROPRIATION AND NONAPPROPRIATION OF INTERNATIONAL SPACES Regarding appropriation and sovereignty, the legal situation of outer space is much clearer than Antarctica’s.13 Article II of the Outer Space Treaty clearly sets a nonappro‑ priation principle.14 Despite some interpretations which are often close to bad faith, the rule is wide, clear, and indisputable: “Outer space, including the moon and other celes‑ tial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” It applies not only to the bodies but also to the orbits, the “void space,” as Bin Cheng named it.15 Despite this clear wording, some try to dispute this principle. In our time of general private appropriation, they cannot accept a common domain for humanity. Some argue that the limitation is for “national appropriation” and thus does not apply to private persons. It is a misunderstanding of the word “national,” which is not synonym with “state”. If we consider the context, i.e., Article VI of the same treaty, “national activities” expressly include governmental and nongovernmental entities.16 In American English the word “nation” is often used instead of “state,” but, in fact, the “nation” is both the government and the people having the nationality of a state.17 Even if some claims are far from serious, they appear so interesting to the world’s media that they are widely spread and enable some to make a lot of money to the detriment of not only consenting victims but also, and more seriously, of the principle itself. The well‑known claims made by the “Head Cheese,” Dennis Hope, for the Moon and every 112 7 Aff planet of the solar system are a good example of this distortion of the law and of the evo‑ lution of a fanciful project turning into a money making enterprise.18 Another claim is more interesting from a legal perspective. A U.S. citizen, Gregory W. Nemitz, knowing about a project by NASA to land a space probe on the asteroid Eros, decided to claim it as his property. When NASA landed its spacecraft on the asteroid, he asked for a rent before federal courts of justice.19 The decisions of the courts dismissed this claim but are not quite decisive on the nonappropriation principle itself. On the other hand, the U.S. Department of State had the opportunity to fully clarify the point of claims on asteroids. Responding to Mr. Nemitz’s letters, Ralph L. Braibanti, Director of the Space and Advanced Technology, U.S. Department of State, clearly stated, “Dear Mr. Nemitz. We have reviewed the ‘notice’ dated February 13, 2003, that you sent to the U.S. De‑ partment of State. In the view of the Department, private ownership of an asteroid is precluded by article II of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. Accordingly, we have concluded that your claim is without legal basis.”20

**A ban on private appropriation is the most legally accurate reading of current treaty law**.

**Tronchetti 7** Fabio Tronchetti (International Institute of Air and Space Law, Leiden University, The Netherlands). “The Non‑Appropriation Principle Under Attack: Using Article II of The Outer Space Treaty In Its Defence.” 50 PROC. L. OUTER SPACE 526, 530 (2007). JDN. <https://iislweb.org/docs/Diederiks2007.pdf>

However, it must be said, that nowadays there is a general consensus on the fact that both national appropriation and private property rights are denied under the Outer Space Treaty. Several ways of reasoning have been advanced to support this view. Sters and Tennen affirm that the argument that Article II does not apply to private entities since they are not expressly mentioned fails for the reason that they do not need to be explicitly listed in Article II to be fully subject to the non‑appropriation principle8. Private entities are allowed to carry out space activities but, according to Article VI of the Outer Space Treaty, they must be authorized to conduct such activities by the ap‑ propriate State of nationality. But if the State is prohibited from engaging in certain conduct, then it lacks the authority to license its nationals or other entities subject to its jurisdiction to engage in that prohibited activity. Jenks argues that “States bear inter‑ 113 7 Aff national responsibility for national activities in space; it follows that what is forbidden to a State is not permitted to a chartered company created by a State or to one of its nationals acting as a private adventurer”9. It has been also suggested that the prohibi‑ tion of national appropriation implies prohibition of private appropriation because the latter cannot exist independently from the former10. In order to exist, indeed, private property requires a superior authority to enforce it, be in the form of a State or some other recognised entity. In outer space, however, this practice of State endorsement is forbidden. Should a State recognise or protect the territorial acquisitions of any of its subjects, this would constitute a form of national appropriation in violation of Article II. Moreover, it is possible to use some historical elements to support the argument that both the acquisition of State sovereignty and the creation of private property rights are forbidden by the words of Article II. During the negotiations of the Outer Space Treaty, the Delegate of Belgium affirmed that his delegation “had taken note of the interpre‑ tation of the non‑appropriation advanced by several delegations‑apparently without contradiction‑as covering both the establishment of sovereignty and the creation of ti‑ tles to property in private law”11. The French Delegate stated that: “…there was reason to be satisfied that three basic principles were affirmed, namely: the prohibition of any claim of sovereignty or property rights in space…”12. The fact that the accessions to the Outer Space Treaty were not accompanied by reservations or interpretations of the meaning of Article II, it is an evidence of the fact that this issue was considered to be settled during the negotiation phase. Thus, summing up, we may say that prohibition of appropriation of outer space and its parts is a rule which is valid for both private and public entity. The theory that private operators are not subject to this rule represents a myth that is not supported by any valid legal argument. Moreover, it can be also added that if 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 3 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. Therefore, the need to protect the non‑appropriative nature of outer space emerges in all its relevance.

**Thus, because private appropriation of property in Outer Space does not follow international law in regards to the Outer Space Treaty, I urge an affirmative ballot.**