### **Framework**

#### **The value is justice, defined as giving each their due**

#### **Justice is only possible under a unified rule of law**

**Waldron 96**

Waldron, Jeremy [Professor of Law and Philosophy at the NYU School of Law]. “Kant’s Legal Positivism” Harvard Law Review, May, 1996, Vol. 109, No. 7 (May, 1996), pp. 1535-156

It is certainly not inappropriate to use force to achieve justice. But there is an **affront to** the idea of **justice** when force is used by opposing sides, confrontationally and contradictorily, in justice's name. The point of using force in the name of justice is to assure people of that to which they are entitled. But if force is being used to further contradictory ends, then its connection with assurance is ruptured. In such a situation, force is being used simply to represent the vehemence with which competing opinions about justice are held, and this use of force may well be worse than force not being put to the service of justice at all. **Hence,** there is **the need for a single, determinate community position** on the matter - one whose enforcement is consistent with the integrity and univocality of justice. Certainly, justice is affronted in another way if the position identified and enforced as that of the community (on, say, testamentary freedom) is morally wrong. But given the inevitable disagreement on that issue and given the symmetry, for all practical purposes, of the rival positions on the matter - each side is sincere, each side thinks that its view captures what is really just, each side believes that the other is objectively mistaken - there is no political way in which the prospect of this substantive affront can be precluded. All we can do, politically, for the sake of the integrity of justice is ensure that force is used to uphold one view and **one view only** - a view that anyone may readily identify as that of the community, whatever his substantive opinions on the matter. The integrity of justice, then, evokes the concept of positive law and the philosophical doctrine of **legal positivism**: law must be such that its content and validity can be determined without reproducing the disagreements about rights and justice that it is law's function to supersede.

#### **Therefore, the criterion is respect for the rule of law**

#### **Rule of law is also instrumentally necessary for a well-functioning society**

**Bingham 10**

Baron Tom Bingham of Cornhill, KG, PC, FBA, was an eminent British judge who was successively Master of the Rolls, Lord Chief Justice and Senior Law Lord. He was described as the greatest lawyer of his generation, 2010, The Rule of Law, London: Allen Lane.

I think there are really three reasons. **First**, and most obviously, if you and I are liable to be prosecuted, fined and perhaps imprisoned for doing or failing to do something, we ought to be able, without undue difficulty, to find out what it is we must or must not do on pain of criminal penalty. This is not because bank robbers habitually consult their solicitors before robbing a branch of the NatWest, but because many crimes are a great deal less obvious than robbery, and most of us are keen to keep on the right side of the law if we can. One important function of the criminal law is to discourage criminal behaviour, and we cannot be discouraged if we do not know, and cannot reasonably easily discover, what it is we should not do. The **second** reason is rather similar, but not tied to the criminal law. If we are to claim the rights which the civil (that is, non-criminal) law gives us, or to perform the obligations which it imposes on us, it is important to know what our rights or obligations are. Otherwise we cannot claim the rights or perform the obligations. It is not much use being entitled to, for example, a winter fuel allowance if you cannot reasonably easily discover your entitlement, and how you set about claiming it. Equally, you can only perform a duty to recycle different kinds of rubbish in different bags if you know what you are meant to do. The **third** reason is rather less obvious, but extremely compelling. It is that the successful conduct of trade, investment and business generally is promoted by a body of accessible legal rules governing commercial rights and obligations. No one would choose to do business, perhaps involving large sums of money, in a country where the parties’ rights and obligations were vague or undecided. This was a point recognized by Lord Mansfield, generally regarded as the father of English commercial law, around 250 years ago when he said: ‘The daily negotiations and property of merchants ought not to depend upon subtleties and niceties; but upon rules easily learned and easily retained, because they are the dictates of common sense, drawn from the truth of the case.’ In the same vein he said: ‘In all mercantile transactions the great object should be certainty: and therefore, it is of more consequence that a rule should be certain, than whether the rule is established one way or the other. Because speculators [meaning investors and businessmen] then know what ground to go upon.’ But this is not an old-fashioned and outdated notion. Alan Greenspan, the former chairman of the Federal Reserve Bank of the United States, when recently asked, informally, what he considered **the single most important contributor to economic growth**, gave as his considered answer: **‘The rule of law.’** Even more recently, The Economist published an article which said: ‘The rule of law is usually thought of as a political or legal matter ... But in the past ten years the rule of law has become important in economics too ... The rule of law is held to be not only good in itself, because it embodies and encourages a just society, but also as **a cause of other good things**, notably growth.’ The article went on to acknowledge some dispute among economists about the strength of the connection between the rule of law and economic growth, drawing attention to China as an exception, but did not suggest there was no connection. Given the importance of this principle, we cannot be surprised to find it clearly stated by courts all over the world. In the House of Lords in 1975 Lord Diplock said: ‘The acceptance of the rule of law as a constitutional principle requires that a citizen, before committing himself to any course of action, should be able to know in advance what are the legal principles which flow from it.’ He made much the same point a few years later: ‘Elementary justice or, to use the concept often cited by the European Court [the Court of Justice of the European Communities], the need for legal certainty demands that the rules by which the citizen is to be bound should be ascertainable by him (or, more realistically, by a competent lawyer advising him) by reference to identifiable sources that are publicly available.’ The European Court of Human Rights at Strasbourg has spoken to similar effect: [T]he law must be adequately accessible: the citizen must be able to have an indication that is adequate in the circumstances of the legal rules applicable to a given case ... a norm cannot be regarded as a ‘law’ unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able — if need be with appropriate advice — to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail . So too the Chief Justice of Australia, listing the practical conclusions held by Australian courts to be required by the principle of the rule of law: ‘the content of the law should be accessible to the public’.

### **Contention 1—Arbitrariness**

#### **Any act of appropriation is indeterminate absent a common understanding of property found in law**

**Waldron 96**

Waldron, Jeremy [Professor of Law and Philosophy at the NYU School of Law]. “Kant’s Legal Positivism” Harvard Law Review , May, 1996, Vol. 109, No. 7 (May, 1996), pp. 1535-156

The **main subject matter of justice** and right in Kant's political philosophy is property - the possession and use of external material resources. For Kant, the concept of property, and the allied concepts of empirical and intelligible possession, are amenable to philosophical exposition. (He expounds them in the first seventeen paragraphs of the Metaphysical First Principles of the Doctrine of Right.) I will not bore the reader with the details; it is enough to say that, although the exposition is terribly convoluted, Kant does not indicate that he thinks the complexities of these concepts are the source of the disagreements we are trying to explain. Kant makes pretty clear, however, that the concepts he develops are likely to involve considerable difficulty and controversy in their applications. **In a state of nature,** to have property along Lockean lines or anything like it, people's rightful holdings would have to be based on a principle such as first occupancy. But occupancy, which Kant interprets to mean "taking control," is quite **indeterminate**: how do we correlate one's acts of control with an exact extent of land controlled? Besides, the question of how much exactly one comes to own when one takes control of a piece of land will be bound up in part with one's sense of the effect of one's action on others' situations. But it may be unclear how many others there are, or it may be a matter of dispute how many of all the others there are (everywhere) one is supposed to take into account. Inevitably, disputes will also arise about who is (or who was) the first occupant of a piece of land. That prospect is more or less unavoidable, given Kant's account of appropriation. To **appropriate** X is not only to take X under one's physical control, but to do so in a way such that one's right in X will be violated if, subsequently, another person uses or encroaches upon X even while the initial appropriator is not actually in physical control of X. In the state of nature, however, if one appropriates a piece of land and then wanders off, how is another to know whether the land has already been appropriated or is still available for first occupancy? (This problem is particularly acute in a theory like Kant's that does not insist on any mark of occupancy, such as labor.) Notice that these difficulties of application are not matters on which reason offers no guidance or matters to be settled by arbitrary stipulation, like the rule about which side of the road to drive on. Surely, of two people wrestling for control of a piece of land, one or the other was in fact the first occupant; surely, there is a right answer to the question of whether someone, in violation of the Lockean proviso, has taken more than his share. Moreover, the fact that people think there is a right answer will likely inspire each party to struggle vehemently for his view of the matter; in contrast, nobody fights very hard over questions like which side of the road to drive on. The trouble with the application of acquisition principles is not that, in theory, no right answers exist, but that **there is no basis common to the parties** for determining which answers are right.

#### **No such legal system exists for determining property rights to outer space; therefore, all private appropriation of space is unjust**

**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 appropriate 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 international 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 prohibition 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 interpretation of the non-appropriation advanced by several delegations-apparently without contradiction-as covering both the establishment of sovereignty and the creation of titles 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.

#### **That links to the framework—ignoring the standing law would violate the rule of law**

**Waldron 96**

Waldron, Jeremy [Professor of Law and Philosophy at the NYU School of Law]. “Kant’s Legal Positivism” Harvard Law Review , May, 1996, Vol. 109, No. 7 (May, 1996), pp. 1535-156

How we think about disagreement on matters of public concern will determine how we think about politics, and - because law is the offspring of politics - how we think about disagreement will determine, in some measure, how we think about law. For example, the members of a community may be divided on the question whether a testator should have the power to exclude a surviving child from the enjoyment of his estate. Imagine that some citizens, celebrating testamentary freedom, say that he should - it is, after all, his property that is passing by his will. Others say that he should not - once he is dead, the importance of respecting his arbitrary freedom diminishes in comparison to the importance of securing the welfare of his dependents. The issue is a political one not simply because the citizens disagree, for we disagree about all sorts of things - for instance, the virtues of the modern novel, the causes of the Punic Wars - on which no political decision is necessary. The issue of testamentary power is a **political one** because those who disagree on the merits nevertheless agree that the community needs to reach some determinate resolution. Testamentary freedom is not something on which we can agree to differ. Or, rather, we can agree to differ in our opinions, but it is necessary, all the same, that we arrive at some position on the issue to be upheld and enforced as the community's position on the testamentary powers of property owners. Because we disagree about which position should stand and be enforced in the name of the community, we need a process - **a political process** - to determine what that position should be. And we need a practice of recording, respecting, and implementing positions of this sort by individuals and agencies acting in the name of the community - a practice that is resilient in the face of disagreement with the community position on the part of those entrusted with its implementation. If we call the position that is identified as the community's position the law of that community, then the resilience of the practice to which I have just referred is what we mean by the rule of law. Understood in this way, the rule of law is not simply the principle that officials should apply the law even when it disserves their own interests. It is the principle that an official should enforce the law even when it is in his confident opinion unjust, morally wrong, or misguided as a matter of policy. The **enactment of the law in question is evidence of the existence of a view different from his own** concerning the law's justice, morality, or desirability. In other words, the law's existence, together with the official's own opinion, indicates moral disagreement in the community. The official's failure to implement the law because he believes that it is unjust, or his decision to do something other than what the law requires because he believes that action would be more just, is **tantamount to abandoning the very idea of law** - namely, the very idea of the community taking a position on an issue on which its members disagree. It is a reversion to the situation in which each person acts on his own judgment and does whatever seems right or just to him. Would this result be such a calamity? It may be, if people's moral judgments are irrational, ill-thought-through, uninformed, or biased. But even assuming that each person does his best to ascertain what is really right or really just, there will still be problems to the extent that different persons arrive (however scrupulously) at different conclusions.

### **Contention 2—Equality**

#### **Unilateral claims to property violate moral equality under the law**

**Stilz 9**

Stilz, Anna [Laurance S. Rockefeller Professor of Politics and Human Values at Princeton]. Liberal Loyalty: Freedom, Obligation, and the State. Princeton: Princeton University Press, 2009. Print.

What is the problem with these **private methods of defining** our rights to **property?** Why are they so unsatisfactory, from Kant’s perspective? The essential problem with acquiring property rights in a state of nature, for Kant, seems to be that we cannot unilaterally—through private will— impose a new obligation on other persons to respect our property that they would not otherwise have had.30 “By my unilateral choice I cannot bind another to refrain from using a thing, an obligation he would not otherwise have; hence I can do this only through the united choice of all who possess it in common” (MM, 6:261).31 Even claiming to interpret the a priori general will on another person’s behalf, says Kant, is attempting to impose a law on them on my own private authority, since every act of appropriation is “the giving of a law that holds for everyone” (MM, 6:253).32 And he worries that this claim to private authority over others is a potential source of injustice: “Now when someone makes arrangements about another, it is always possible for him to do the other wrong; but he can never do wrong in what he decides upon with regard to himself (for volenti non fit inuria)” (MM, 6:314). My **will to appropriate**, in the belief that my appropriation is justifiable to others, cannot yet serve as a (coercive) law for everyone else, because it cannot put them under an obligation Kant suggests, in other words, that figuring out how to carve up shares of the external world consistently with everyone’s freedom does not exhaust the entire problem of justice involved in acquiring rights to property. We might appeal to criteria of salience or convention to help coordinate our expectations on which of the many possible property distributions to choose. But we face an additional difficulty: how do we impose one of these distributions without at the same time arrogating to ourselves the private authority to lay down the law for an equally free being, one who has an innate right not to be constrained by our private will? In coercing someone to respect our view of our property rights, we are also necessarily claiming the right to impose our private will upon that person. If it is to really respect everyone’s freedom, Kant thinks, a property distribution cannot be unilaterally imposed in this way. This additional dimension of the problem of justly acquiring rights— the problem of unilateral imposition—is rooted in each person’s basic “right to do what seems right and good to him and not to be dependent upon another’s opinion about this” (MM, 6:312). This right to do what seems right and good to him **derives from the moral equality of persons**: no one has an innate right to decide in another person’s behalf. And because each person is an equally authoritative judge, it is therefore impossible—in a state of nature—to put him under an obligation of justice that he himself does not recognize. The will of all others except for himself, which proposes to put him under obligation to give up a certain possession, is merely unilateral, and hence has as little lawful force in denying him possession as he has in asserting it (since this can be found only in a general will). (MM, 6:257) In conditions of equal authority—such as those that exist in any state of nature—one is obligated only by what one recognizes, by one’s own lights, as an objectively valid requirement of justice. For that reason, no other person’s merely unilateral will can bind one in the face of one’s own disagreement. Kant concludes from this that “no particular will can be legislative for the commonwealth” (TP, 8:295), since no private person’s will can effectively claim to impose an obligation on others. Instead, Kant says that “all right,” that is to say all claims that impose binding duties on others, “depends on laws” (TP, 8:294). **Law overcomes the problem of unilateralism** inherent in imposing new obligations on others on one’s own authority, by substituting an omnilateral will in place of a unilateral one: “Only the concurring and united will of all, insofar as each decides the same thing for all, and all for each, and so only the general united will of the people, can be legislative” (MM, 6:314). But why is law—imposed from a public perspective—consistent with everyone’s freedom in a way that particular wills—based on our private judgments—are not? Fundamentally, Kant argues that defining and enforcing both our rights over our bodies and our rights to external objects through public and nonarbitrary laws is the only way to secure ourselves against the coercive interference of other private persons in our affairs. For Kant, then, the only sort of property distribution to which we could all hypothetically consent must necessarily be one that is defined and enforced by the state, since all privately enforced distributions have the inevitable side-effect of subjecting us to the wills of others. To show this in more detail, Kant points out two different ways that unilateral private enforcement undermines our right to independence: first, through unilateral interpretation— a particularly pervasive problem in the enforcement of property rights, since these rights are fully conventional in a way our rights over our bodies are not; and second, through unilateral coercion, which threatens interference by others in all our rights, both our rights over our bodies and our rights over external things.

#### **This is empirically the case for space law, where developed and developing nations have diverging viewpoints on property claims**

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[Jose A. Martin, Finders Keepers: Who Has Say Over Private Property in Space, 7 Tex. A&M J. Prop. L. 199, 2021). <https://doi.org/10.37419/JPL.V7.I2.3>, accessed 7-10-21]

B. Why the Law of the Sea Is Not Fit for Space

Outer space and the Earth’s oceans share many similarities, which makes the law of the sea appear ideal to build a suitable system to guide property rights in outer space. However, the common heritage principle embedded in UNCLOS III **presents an obstacle to granting** the **freedom to exploit outer space resources**. The original authors of the Moon Agreement also agreed with the sentiment of UNCLOS III, which heavily influenced the Moon Agreement.164 One particular note taken from UNCLOS III was the regulation of seabed mining.165 The Moon Agreement intended that resources falling outside the territories of nation-states—in this case, off-Earth resources—belong to the common heritage of mankind.166 **Developed nations** are concerned with the possible commercial exploitation of outer space and the protection of such investments.167

Some argue that the common heritage principle found in UNCLOS III conflicts with the purpose of the Outer Space Treaty because the meaning of the common heritage principle is unclear.168 Moreover, they claim that interpretations of the common heritage principle clash between developed and developing countries.169 **Developing nations** interpreted the common heritage principle to mean that all space resources are the common property to all nations, and international control is necessary for redistributing wealth and technology between nations.170 The United States, however, took a more laissez-faire approach and interpreted the common heritage principle to mean free access in exploring and exploiting space resources.171

### **Underview**

#### **Private appropriation is also not pragmatic**

#### **Private space ventures in advance of a global framework create a race-to-the-bottom that breeds conflict**

**Pastorius 13** Claudia Pastorius (2013) J.D., Barry University School of Law. B.A., International Studies, Johns Hopkins University. "Law and Policy in the Global Space Industry's Lift-Off,"Barry Law Review: Vol. 19 : Iss. 1 , Article 7.Available at:https://lawpublications.barry.edu/barrylrev/vol19/iss1/7

PART IV:SPACE LAW DEVELOPMENT &POLICY CONSIDERATIONS “The now ubiquitous and interconnected nature of space capabilities and the world’s growing dependence on them mean that **irresponsible acts in space can have damaging consequences for all of us.**”314A. Security of Humanity Innovations in space technology315 make it increasingly possible for any private or nation-state venture to gain access to outer space,316 which presents grave security risks for mankind.317 Different nation-states have varying systems of governance, ideals and goals, financial resources, judicial authority, and military capacity to contribute to the full exercise of jurisdiction over a commercial space enterprise.318 Safety concerns arise in both the context of ensuring the safety of commercial space flight passengers and preventing the militant and violent use of outer space development.319 The development of an outer space insurance industry will require proven safety standards for commercial outer space travel, reliable international regulations regarding liability, and the mitigation of concerns regarding the militant or violent use of outer space.320

Both the Outer Space Treaty and the Convention on Liability impose state obligations **for jurisdiction** through “launching state” status as espoused in Articles VI–VIII.321 Commercial space ventures, however**, could be based out of virtually any nation-state**.322 In fact, there is a super-plane in development that would allow space vehicles to launch and ascend into outer space from 30,000 feet above ground.323 In addition to raising jurisdictional issues for want of a “launching state,” such ventures create real risks of security breaches and inadequate safety regulation enforcement.324 Without a global regulatory **framework, private space ventures may proceed with limited oversight and accountability for their space activities within individual nation-states.**325 Space ventures deployed by newer nation-state government programs or private space ventures based out of nation-states without space programs pose particular risks because the governments may lack the experience, expertise, resources, technology, or regulatory infrastructure to properly mitigate safety and security risks.326

In the United States, the Commercial Space Launch Amendments Act of 2004 addressed the security concerns in space technology development stating, “[t]he regulatory standards governing human space flight must evolve as the industry matures so that regulations neither stifle technology development nor expose crew or space flight participants to avoidable risks as the public comes to expect greater safety for crew and space flight participants from the industry.”327 The United States’ Space Policy principles and directives issued by President Obama in 2010 reaffirm the nation’s commitment to “strengthened international collaboration.”328However, the practical guidance documents of the Office of Commercial Space Transportation (FAA-AST) in 2012, affirmed that, “[a]t this time, the U.S. Government does not support creating an international space organization such as for space safety.”329 What the policy directive effectively declares are the principles and practices the United States will unilaterally adhere to in its space industry development, and it encourages other nations to also adopt those principles.330

The Federal Aviation Administration currently follows a different policy than other countries on the certification of space flight vehicles.331 The agency recently opposed the European Aviation Safety Agency’s (EASA) proposed certification of space flight vehicles, asserting that the cost is too great at this time and the industry is too new to have established best practices.332 The United States instead requested that the EASA consider using the “lighter” process of FAA-AST licensing of launches for commercial space flights, without safety certifications of vehicles.333Waiting for “best practices” in the global space industry to **emerge through trial and error may be a grave mistake**. A **precautionary principle** should be applied to ensure the safety of space travelers and the **security of nation-states and mankind.**

Commercial space companies have a strong incentive to ensure passenger safety because it is essential to their success and future profitability.334 The motivation of commercial ventures and the experience and resources of spacefaring nation-states could be combined to most efficiently and effectively increase the stability and safety of commercial spaceflight.335 The standards and testing requirements the government agencies of spacefaring nation-states have employed to determine the level of risk involved in new spacecraft technology can be adapted to the commercial environment.336 Developing confidence in the safety of commercial spaceflight and certainty in the regulations will encourage insurance companies to support the outer space industry and aid in its growth.337

The Outer Space Treaty expressly prohibits states from placing nuclear weapons, or other weapons of mass destruction, into orbit or on other celestial bodies.338 However, the Outer Space Treaty does not prohibit sending ballistic missiles or other weapons that are not considered weapons of mass destruction into space.339 When outer space colonies come to exist**, security measures** in the **deployment of materials to outer space will be necessary**. Raw materials that can create weapons of mass destruction should be interplanetary contraband; but an authority to ensure contraband does not enter outer space is not yet in place.340Additionally, there are plans to use nuclear power for spacecraft.341 If this is permitted, then an additional layer of security measures would be required to ensure the means of energy production are truly intended to facilitate the peaceful use of nuclear energy and the peaceable uses of outer space.342

The enforcement measures for preventing the deployment of nuclear weapons into space will vary for each nation-state depending on the availability and allocation of resources to the task.343 Because private ventures are empowered to choose the nation-state in which to base their commercial space activities, **a regulatory “race to the bottom” could ensue for lack of minimum uniform security measures**.344 If nation-state actors, who have no interest in compliance with the Outer Space Treaty, choose to send weapons of mass destruction into space, the risk is graver still.345 **Regime changes and brewing conflicts in the world indicate the possibility of nations or individuals who would choose to engage in warfare346 and could do so from space.347**

#### **Conflicts in space could be existential in scope**

**Deudney 20** Deudney, Daniel. Daniel H. Deudney teaches political science, international relations and political theory at Johns Hopkins University. He holds a BA in political science and philosophy from Yale University, a MPA in science, technology, and public policy from George Washington University, and a PhD in political science from Princeton University. Dark skies: Space expansionism, planetary geopolitics, and the ends of humanity. Oxford University Press, USA, 2020. [Quality Control]

Nowhere does how we resolve questions about space choices and outcomes more **decisively shape human survival prospects** than with nuclear weapons. The anthropogenic threat of nuclear war is **widely rated** by analysts of catastrophic and existential threats as a paramount contemporary **danger**, but most space expansionists view their enterprise as either unrelated to this problem or a par-tial solution to it. The clash between military space expansionists and advocates of the planetary security approach over nuclear weapons, arms control, and var-ious types of space weapons **speaks directly to this salient** macro**threat**. If we con-clude, with the military space expansionists, that orbital weapon infrastructures to shoot down ballistic missiles are feasible and desirable, then the path to nu-clear security is more,not less,weaponization. Or, if we conclude that the use of ballistic missiles is part of the space story and that these weapons have raised the probability of nuclear war, then we must view the overall space enterprise negatively.The asteroid peril seems a simple and straightforward case for space activity, but it is actually quite vexed. These small celestial bodies, which swarm in vast numbers throughout the solar system and occasionally destructively collide with the Earth, can, with reasonable time and effort, very probably be detected and diverted. Because it is a matter of when, not whether a collision will occur again, asteroids are the wild card in the space futures deck. Asteroids are also central to any large-scale development of space near the Earth because they are the most readily accessible source of raw materials for building infrastructures in space. But once capabilities to move asteroids are brought into existence, how can we be confident that intentional bombardment, which some have proposed, will not open up an **entirely new vector of** catastrophic and **existential threat**? And what does the threat of intentional asteroidal bombardment imply about the actual consequences of extensive solar colonization, if it is accompanied by **war between** different **settled worlds**? Curiously, space advocates have almost to-tally ignored the proposition of the astronomers Carl Sagan and Steve Ostro that the development of capabilities to deflect asteroids **will increase the probability of an asteroid striking the Earth** due to their potential employment as inten-tional weapons of destruction, a line of thinking that has **profound implications** for the desirability of the cosmic diaspora that space expansionists, including Sagan, so ardently support.12