**I, AND THE STUDENTS AT GEFFIN, STAND RESOLVED**

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

**For clarity we’ll start with…**

**OBSERVATION ONE: DEFINITIONS**

1. **Appropriation**

**Gorove 1969** [Stephen Gorove, Chairman of the Graduate Program of the School of Law and Professor of Law University of Mississippi School of Law , 1969, “Interpreting Article II of the Outer Space Treat”, Fordham Lw Review Volume 37 Issue 3, https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1966&context=flr ] // Triumph Debate

With respect to the concept of appropriation **the** basic **question is what constitutes "appropriation," as used in the Treaty, especially in contradistinction to casual or temporary use.**

**Under such interpretation the establishment of a permanent settlement or the carrying**

**out of commercial activities** by nationals of a country on a celestial body may **constitute** national **appropriation** if the activities take place under the supreme authority (sovereignty) of the state. Short of this, if the state wields no exclusive authority or jurisdiction in relation to the area in question, the answer would seem to be in the negative, unless, the nationals also use their individual

appropriations as cover-ups for their state's activities.5 In this connection, it should be emphasized that **the word "appropriation" indicates a taking which involves something more than just a casual use.** Thus a temporary occupation of a landing site or other area, just like the temporary or nonexclusive use of property, would not constitute appropriation. By the same token,

1. **Outer space**

**we’ll use conventional definition beginning at the Karman line**

**DR. HOWELL, 2017 (Elizabeth,**  Ph.D. and [M.Sc](http://M.Sc). in Space Studies from the University of North Dakota, and a Bachelor of Journalism from Canada's Carleton University. Her latest book, NASA Leadership Moments, is co-written with astronaut Dave Williams,**“What is Space?”, space.com, 6/7/17,** [**https://www.space.com/24870-what-is-space.html**](https://www.space.com/24870-what-is-space.html)**)**

**From the perspective of an Earthling, outer space is a zone that occurs about 100 kilometers (60 miles) above the planet,** where there is no appreciable air to breathe or to scatter light. In that area, blue gives way to black because oxygen molecules are not in enough abundance to make the sky blue.

**Further, space is a vacuum, meaning that sound cannot carry because molecules are not close enough together to transmit sound between them. That's not to say that space is empty, however. Gas, dust and other bits of matter float around "emptier" areas of the universe, while more crowded regions can host planets, stars and galaxies.**

No one knows exactly how big space is. The difficulty arises because of what we can see in our detectors. We measure long distances in space in "light-years," representing the distance it takes for light to travel in a year (roughly 5.8 trillion miles, or 9.3 trillion kilometers).

1. **Private entities**

**We’ll use the definition in the U.S. Code.**

**US CODE,** [**6 USC § 1501(15)(A)**](https://www.law.cornell.edu/uscode/text/6/1501#15_A)**,**

https://uscode.house.gov/view.xhtml?req=(title:6%20section:1501%20edition:prelim)

#### (15) Private entity

#### **(A) In general**

**Except as otherwise provided in this paragraph, the term "private entity" means any person or private group, organization, proprietorship, partnership, trust, cooperative, corporation, or other commercial or nonprofit entity, including an officer, employee, or agent thereof.**

#### (B) Inclusion

The term "private entity" includes a State, tribal, or local government performing utility services, such as electric, natural gas, or water services.

#### (C) Exclusion

The term "private entity" does not include a foreign power as defined in section 1801 of title 50.

**OBSERVATION TWO: CRITERIA AND WEIGHING MECHANISM**

**First, we begin by defining the key term “unjust”.**

**Black's Law Dictionary Free Online Legal Dictionary 2nd Ed.** *(“unjust”,* *https://thelawdictionary.org/unjust/, retrieved 1/11/22)*

# **What is UNJUST?**

**Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws.**

**Justice is a three-legged construct. Weakening one of the legs creates the conditions for injustice.**

Center for Economic and Social Justice, 2022 (<https://www.cesj.org/learn/definitions/defining-economic-justice-and-social-justice/>, retrieved 1/11/22)

**Defining Economic Justice**

E**conomic justice, which touches the individual person as well as the social order, encompasses the moral principles which guide us in designing our economic institutions. These institutions determine how each person earns a living, enters into contracts, exchanges goods and services with others and otherwise produces an independent mater0ial foundation for his or her economic sustenance**. The ultimate purpose of economic justice is to free each person to engage creatively in the unlimited work beyond economics, that of the mind and the spirit.

**The Three Principles of Economic Justice**

Like every system, economic justice involves input, out-take, and feedback for restoring harmony or balance between input and out-take**. Within the system of economic justice as defined by Louis Kelso and Mortimer Adler, there are three essential and interdependent principles: Participative Justice (the input principle), Distributive Justice (the out-take principle), and Social Justice (the feedback and corrective principle). Like the legs of a three-legged stool, if any of these principles is weakened or missing, the system of economic justice will collapse.**

**EVALUATIVE MECHANISM: JUSTICE IS MANIFESTED AS FAIRNESS**

**CONSTITUTIONAL RIGHTS FOUNDATION, 2007. (“BRIA 23 3 c Justice as Fairness; John Rawls and His Theory of Justiceis Theory of JusticeHi ”,** FALL 2007; Vol. 23, no. 3, https://www.crf-usa.org/bill-of-rights-i)

**The Second Principle of social justice concerns social and economic institutions:**

***Social and economic inequalities are to satisfy two conditions:***

*first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and*

*second, they are to be to the greatest benefit of the least-advantaged members of society (the Difference Principle).*

**This Second Principle focused on equality. Rawls realized that a society could not avoid inequalities among its people. Inequalities result from such things as one's inherited characteristics, social class, personal motivation, and even luck. Even so, Rawls insisted that a just society should find ways to reduce inequalities in areas where it can act.**

By "offices and positions" in his Second Principle, Rawls meant especially the best jobs in private business and public employment. He said that these jobs should be "open" to everyone by the society providing "fair equality of opportunity." One way for a society to do this would be to eliminate discrimination. Another way would be to provide everyone easy access to education.

The most controversial element of his theory of social justice was his Difference Principle. He first defined it in a 1968 essay. "All differences in wealth and income, all social and economic inequalities," he wrote, "should work for the good of the least favored."

Later, when he wrote *A Theory of Justice,*he used the phrase, "least-advantaged members of society" to refer to those at the bottom of economic ladder. These might be unskilled individuals, earning the lowest wages in the society.

**Under the Difference Principle, Rawls favored maximizing the improvement of the "least-advantaged" group in society. He would do this not only by providing "fair equality of opportunity," but also by such possible ways as a guaranteed minimum income or minimum wage (his preference). Rawls agreed that this Difference Principle gave his theory of social justice a liberal character.**

Finally, Rawls ranked his principles of social justice in the order of their priority. The First Principle ("basic liberties") holds priority over the Second Principle. The first part of the Second Principle ("fair equality of opportunity") holds priority over the second part (Difference Principle). But he believed that both the First and Second Principles together are necessary for a just society.

**UTILITARIAN CRITERIA IS INFERIOR TO FAIRNESS**

**STANFORD ENCYCLOPEDIA OF PHILOSOPHY, 2021. (“JOHN RAWLS”,** First published Tue Mar 25, 2008; substantive revision Mon Apr 12, 2021, <https://plato.stanford.edu/entries/rawls/#TwoGuiIdeJusFai>)

**Justice as fairness is Rawls’s theory of justice for a liberal society. As a member of the family of liberal political conceptions of justice it provides a framework for the legitimate use of political power. Yet legitimacy is only the minimal standard of moral acceptability; a political order can be legitimate without being just. Justice sets the maximal standard: the arrangement of social institutions that is morally best.**

**Rawls constructs justice as fairness around specific interpretations of the ideas that citizens are free and equal, and that society should be fair. He sees it as resolving the tensions between the ideas of freedom and equality,** which have been highlighted both by the socialist critique of liberal democracy and by the conservative critique of the modern welfare state. **Rawls also argues that justice as fairness is superior to the dominant tradition in modern political thought:**

**THEREFORE APPROPRIATION IS UNJUST IF IT**

1. **VIOLATES FAIRNESS BY PROMOTING INEQUITY**
2. **VIOLATES MORAL STANDARDS MANIFESTED IN LAW**

**CONTENTION ONE: OUTER SPACE TREATY (OST) ESTABLISHED MORAL RULES FOR CONDUCT**

**OST establishes principles of proper conduct in space**

GRUSH 17 (Loren Grush – science reporter for The Verge, the technology and culture brand from Vox Media, where she specializes in all things space—from distant stars and planets to human space flight and the commercial space race. “How an International treaty signed 50 years ago became the backbone for space law” Jan. 27, 2017 .< https://www.theverge.com/2017/1/27/14398492/outer-space-treaty-50-anniversary-exploration-guidelines>)

**Fifty years ago today, the United States, the Soviet Union, and the United Kingdom opened a treaty for signature that would become the backbone for international space law.** It was a United Nations-approved agreement called the Outer Space Treaty, and [104 nations have become parties to the document](http://disarmament.un.org/treaties/t/outer_space) since it was signed and enacted in 1967. Since then, **the treaty has helped ensure the peaceful exploration of space, as well as provide a lasting framework for how nations are supposed to behave in Earth orbit and beyond.**

**A LIST OF PRINCIPLES FOR WHAT NATIONS CAN AND CANNOT DO IN SPACE AND ON OTHER WORLDS**

**In reality, the “Outer Space Treaty” is just a nickname. The document’s full title is the “Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.” It’s a lengthy name, but it sums up the essence of the treaty well: it’s a list of principles for what nations can and cannot do in space and on other worlds. For example, nations can’t claim an asteroid as theirs, and they also should prevent contaminating foreign planets.**

**The Outer Space Treaty prohibits private appropriation of space for 3 reasons**

**Kelly 04** [Robert Kelly, 3rd Year Law student at the University of Mississippi School of Law and Research Associate for the National Remote Sensing and Space Law Center, 2004, “Nimitz v. United Sates, A Case of First Impression: Appropriation, Private Property Rights and Space Law Before the Federal Courts of The United States”, Journal of Space Law, Vol. 30, https://heinonline.org/HOL/P?h=hein.journals/jrlsl30&i=313 ] // Triumph Debate

The law on this issue is clear. The Appellant does not present a claim for which the District Court may provide relief. The Appellant presents no legal or factual evidence for the source of his "natural right" in Eros. He merely claims that this right lies within the unenumerated rights of the Ninth and Tenth Amendments. These Amendments have never been interpreted to create property rights. Thus, the Appellant's claim is without merit and cannot survive a Federal Rules of Civil Procedure Section 12(b)(6) motion to dismiss for failure to state a claim. The case does contain an interesting issue, but which was not raised by the parties and therefore which, regrettably, the court will not address: whether or

not Article II and Article VI of the Outer Space Treaty allow for private ownership of lunar or celestial property.

**natural persons, corporations and non-governmental entities may act in outer space only with the authorization and under the supervision of States.**

This is not to say that natural persons, corporations and non-governmental entities might not be able to acquire some types of property interests in lunar and celestial property or engage in some types of private activities. That is not the focus of this study. **This** merely **means that they are prohibited from appropriating lunar and celestial property.**

Reforming the OST is meant for the commodification of property

Dickens 10 (Peter Dickens– Visiting Professor of Sociology at the University of Essex “The Humanization of the Cosmos – To What End?” November 2010 .< <http://monthlyreview.org/2010/11/01/the-humanization-of-the-cosmos-to-what-end>> L.F.)

Space Law: Making the Survival of Humankind Profitable Given the increased emphasis on the commercialization of outer space, it comes as no surprise to find the question of private property in outer space opened up for debate. If capital is to undertake a space program and commodify nearby parts of the solar system, it needs reassurance that its investments will be protected by law. The issue is now being highlighted by an argument over the geostationary orbit (GEO). This is the 30 km-wide strip 35,786 km above the equator, one in which satellites can orbit at the same speed as the ground below them. With only three satellites in the GEO, a media conglomerate, a communications company, or a government surveillance agency can cover the whole world. No wonder it has been called “space’s most valuable real estate.”15 This raises the urgent question, one still not adequately resolved, of who actually owns this area of outer space. Is it owned by the equatorial countries such as Colombia, Indonesia, and Kenya under this strip? Or is it jointly owned and managed by all states? The debate over the GEO is a microcosm of that concerning outer space as a whole. The present position is one in which the moon and other celestial bodies cannot be legally owned. Under Article II of the 1967 United Nations Outer Space Treaty, the whole of outer space “is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.”16 It seems clear that the intention here was to prevent ownership and commodification of outer space. But this is now being challenged.

**Specifically, appropriation of outer space challenges the global commons.**

Peter Dickens, “The Humanization of the Cosmos—To What End?”, 1 November 2010, *Monthly Review*, <http://monthlyreview.org/2010/11/01/the-humanization-of-the-cosmos-to-what-end>

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CONTENTION TWO: IDEOLOGICAL INJUSTICE

Specifically, appropriation of outer space extends a colonial ideology

Ultrata,ALINA (  PhD Candidate in the Department of Politics and International Studies at the University of Cambridge, and a Gates-Cambridge “Lost in Space”, 1 November **2021**, *Boston Review*, <https://bostonreview.net/articles/lost-in-space/>

Musk and Bezos rely on the notion that colonizing space somehow differs from colonizing Earth. Implicit in their arguments is the belief that it was not the systems of colonial-capitalism, but rather the context surrounding their implementation, that wreaked havoc in the past. On this view, although previous colonization attempts often unleashed genocidal violence, that history cannot be repeated in space. After all, no one lives there. This perspective ignores the fact that colonial destruction was justified by a specific ideology that made a certain view of the world, and humanity’s role in it, appear natural and inevitable. The idea that space is open for the taking simply because “no one is there” finds root in the exact colonial logics that have justified settler genocide for centuries: that only certain people, using resources in certain ways, have a claim to land and ownership. Imperialist conceptions of ownership thus transform space into an “empty frontier” where certain individuals can project their political dreams, whether they be extractive manufacturing industries or settler colonies.

In his recent [**book**](https://www.dukeupress.edu/theft-is-property) Theft is Property! (2019), Robert Nichols interrogates the recursive logic of colonial dispossession, which relies on the simultaneous processes of transformation and theft. As he puts it:

Colonization entails the large-scale transfer of land that simultaneously recodes the object of exchange in question such that it appears retrospectively to be a form of theft in the ordinary sense. . . ‘dispossession’ may be coherently reconstructed to refer to a process in which new proprietary relations are generated but under structural conditions that demand their simultaneous negation.

**Discourse of common benefit disguises inequality and elitism**

**Stockwell 20** [Samuel Stockwell, student at King’s College, 2004, “Legal ‘Black Holes’ in Outer Space: The Regulation of Private Space Companies”, E-International Relations, https://www.e-ir.info/2020/07/20/legal-black-holes-in-outer-space-the-regulation-of-private-space-companies/

**The US government’s support for private space companies is also likely to lead to the reinforcement of Earth-bound wealth inequalities in space. Many NewSpace actors frame their long-term ambitions in space with strong anthropogenic undertones, by offering the salvation of the human race from impending extinction through off-world colonial developments** (Kearnes & Dooren: 2017: 182). **Yet, this type of discourse disguises the highly exclusive nature of these missions. Whilst they seem to suggest that there is a stake for ordinary citizens in the vast space frontier, the reality is that these self-described space pioneers are a member of a narrow ‘cosmic elite’** – “founders of Amazon.com, Microsoft, Pay Pal… and a smattering of games designers and hotel magnates” (Parker, 2009: 91).

**Guise of global commons ignored by scaling earth inequities**

**Stockwell 20** [Samuel Stockwell, student at King’s College, 2004, “Legal ‘Black Holes’ in Outer Space: The Regulation of Private Space Companies”, E-International Relations, https://www.e-ir.info/2020/07/20/legal-black-holes-in-outer-space-the-regulation-of-private-space-companies/

**Indeed, private space enterprises have themselves suggested that they have no obligation to share mineral resources extracted in space with the global community** (Klinger, 2017: 208). This is reflected in the speeches of individuals such as Nathan Ingraham, a senior editor at the tech site EngadAsteroid mining, who claimed that asteroid mining was “how [America is] going to move into space and develop the next Vegas Strip” (Shaer, 2016: 50). **Such comments highlight a form of what Beery (2016) defines as ‘scalar politics’. In similar ways to the ‘scaling’ of unequal international relations that has constituted our relationship with outer space under the guise of the ‘global commons’** (Beery, 2016: 99), **private companies – through their anthropogenic discourse – are scaling existing Earth-bound wealth inequalities and social relations into space by siphoning off extra-terrestrial resources. By constructing their endeavours in ways that appeal to the common good, NewSpace actors are therefore concealing the reality of how commercial resource extraction serves the exclusive interests of their private shareholders at the expense of the vast majority of the global population.**