Geffen Academy UCLA

AFFIRMATIVE – DELTA

I, AND THE STUDENTS AT GEFFIN, STAND RESOLVED

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

For clarity …

OBSERVATION ONE: DEFINITIONS

A. APPROPRIATION

GOROVE, 69 [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.** h**T**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,

Geffen Academy UCLA

AFFIRMATIVE – DELTA

B. PRIVATE ENTITIES

US CODE 1501 (6 USC § 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.

Geffen Academy UCLA

AFFIRMATIVE – DELTA

OBSERVATION TWO: CRITERIA AND WEIGHING MECHANISM

WE BEGIN BY DEFINING "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.

EVALUATIVE MECHANISM: JUSTICE IS MANIFESTED AS FAIRNESS

CONSTITUTIONAL RIGHTS FOUNDATION, 2007. ("BRIA 23 3 c Justice as Fairness; John Rawls and His Theory of Justice ", 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.

Geffen Academy UCLA

AFFIRMATIVE – DELTA

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**

Geffen Academy UCLA

AFFIRMATIVE – DELTA

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

OST ESTABLISHES PROPER INTERNATIONAL BEHAVIOR/VALUES

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 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.

Geffen Academy UCLA

AFFIRMATIVE – DELTA

THE OUTER SPACE TREATY PROHIBITS PRIVATE APPROPRIATION OF SPACE

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. **Appropriation of lunar and celestial property by natural persons, corporations and non-governmental entities is prohibited by Article II and VI of the Outer Space Treaty for three reasons. First, natural persons, corporations and non-governmental entities may act in outer space only with the authorization and under the supervision of States. If a government was to recognize an appropriation made by one of them, it would constitute national appropriation "by any other means". Second, Article VI of the Outer Space Treaty defines "national" to include non-governmental entities such as natural persons and corporations.** If these actors are viewed as national then their appropriation is likewise national. **Third, if private actors were allowed to appropriate lunar and celestial property, then it would allow States to circumvent their treaty obligations merely by delegating authority to act in otherwise unauthorized manners to non-state actors.** 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.**

THE COMMON HERITAGE PRINCIPLE PROHIBITS APROPRIATION

MIRZAEE, 17 [Siavash Mirzaee, RUDN University Law Institute, 2017, "Outer Space and Common Heritage of Mankind: Challenges and Solutions", RUDN Journal of Law, doi:10.22363/2313-2337-2017- 21-1-102-114] // Triumph debate

The doctrine of common heritage of mankind can be seen from the words of the great sixteenth/seventeenth century legal scholar Grotius who first defined the doctrine as "God himself says 'speaking through the voice of nature' inasmuch as it is not His will to have Nature supply every place with all the necessaries of life; He ordains that some nations excel in one art and others in another. So, by the decree of divine justice it
was brought about that one people should supply the needs of another" [4. P. 309].

designated as part of the «common heritage of mankind», **appropriate treaties or norms of international law,** would **Under the common heritage of mankind principle, no one legally owns international areas** [5. P. 228]. **though everyone manages the areas. National sovereignty does not exist, nor its attendant legal attributes and consequences. Under a common heritage of mankind regime, no state or group of states could legally own any part of an international area. The international community, through administer the area. There are five elements of the common heritage of mankind concept. First, the common heritage of mankind could not be appropriated; Second, it required a system of management in which all users have a right to share. Third, it implied an active sharing of benefits, not only financial but also benefits derived from shared management and transfer of technology,**
Fourth, the concept of common heritage implied reservation for peaceful purposes,

Geffen Academy UCLA

AFFIRMATIVE – DELTA

and, fifth, it implied reservation for further generations, and thus had environmental theoretically development aid.as politically achievable, **implications** [6. P. 87]. it was open to use by the international community but was not owned by the international community. thus radically transforming the conventional relations

REFORMING THE OST IS MEANT FOR 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 CHALENGES THE GLOBAL COMMONS

DICKENS AGAIN (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)

> 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. Mirroring the perspective of the Space Renaissance Initiative, lawyers promoting the extension of the private sector into outer space argue that the framers of the UN Outer Space Treaty "were deliberately ambiguous about private property as opposed to nationally owned property."17

Geffen Academy UCLA

AFFIRMATIVE – DELTA

CONTENTION TWO: IDEOLOGICAL INJUSTICE

Specifically, appropriation of outer space extends a colonial ideology

ULTRATA, Alina **2021**(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** *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.

Geffen Academy UCLA

AFFIRMATIVE – DELTA

PRIVATE SPACE ENDEAVORS PERPETUATE INEQUALITY

STOCKWELL, 20 [Samuel Stockwell, student at King's College, "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).

GLOBAL COMMONS VALUES USED TO FURTHER INEQUALITY

STOCKWELL CONTINUES [Samuel Stockwell, student at King's College, "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.**