#### I affirm the resolution resolved: The appropriation of outer space by private entities is unjust.

#### 

#### Before I begin with this debate, I offer the following definitions

**Appropriation**

**Dominiak 17 says**

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

**Outer space**

**Pershing 19 says**

#### The most commonly accepted definition of outer space is at one hundred kilometers above sea level

**Common Human Heritage**

**Arnold 75 says**

**The common heritage principle describes property that is jointly owned by all people and not subject to appropriation**

Thus my value is justice. This is bc of term just used in the resoulution and I’ll be using Rawls theory of justice. Robert71

Cavalier, Robert. “A Theory of Justice(1971).” John Rawls, <http://caae.phil.cmu.edu/Cavalier/Forum/meta/background/Rawls.html>.

//LHP MS

**Rawls's theory of justice revolves around the adaptation of two fundamental principles of justice** which would, in turn, guarantee a just and morally acceptable society. **The first principle guarantees the right of each person to have the most extensive basic liberty compatible with the liberty of others. The second principle states that social and economic positions are to be** (a) **to everyone's advantage and (b) open to all**. **A key problem for Rawls is to show how such principles would be universally adopted**, and here the work borders on general ethical issues. **He introduces a theoretical "veil of ignorance" in which all the "players" in the social game would be placed in a situation which is called the "original position." Having only a general knowledge about the facts of "life and society," each player is to make a "rationally prudential choice" concerning the kind of social institution they would enter into contract with. By denying the players any specific information about themselves it forces them to adopt a generalized point of view that bears a strong resemblance to the moral point of view.** "**Moral conclusions can be reached** without abandoning the prudential standpoint and positing a moral outlook **merely by pursuing one's own prudential reasoning under certain procedural bargaining and knowledge constraints."**

#### 

#### This means that my value criterion has to be one that fully achieves justice. Thus my value criterion is protecting the commons. This brings me to my first contention,

### 

### Common Human Heritage

#### The common heritage principle is the most effective model for developing space

**Porras 7**

Daniel A. Porras (JD candidate, California Western School of Law). “The Common Heritage of Outer Space: Equal Benefits for Most of Mankind.” 37 Cal. W. Int'l L.J. 143 (2006-2007). JDN. https://heinonline.org/HOL/LandingPage?handle=hein.journals/calwi37&div=9&id=&page=

**With new actors entering the space industry, it will be increasingly difficult to monitor all activities in space and developments on Earth**.25 ' **By establishing a concrete definition of "Common Heritage**" **the United States can proceed with an agreement** similar to the Moon Treaty; one **that oversees all activities in space and on Earth, without concern that a moratorium will be placed over the commercial industry**. Other states will share in the interests they were originally trying to protect in the Moon Treaty, so it will behoove more parties to create a governing body quickly, and without putting unnecessary restrictions on a blossoming private sector.

#### The common heritage principle protects and saves future generations

**Joyner 86**

Christopher C. Joyner (Professor of Government and Foreign Service at Georgetown University). Legal Implications of the Concept of the Common Heritage of Mankind. International and Comparative Law Quarterly, 35(01), 190–199. 1986. JDN. https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/legal-implications-of-the-concept-of-the-common-heritage-of-mankind/27C87188CE97BA536F9FE5DD8E048C78

Important, too, are the legal implications of "heritage" as presented in a CHM regime. Clearly, the concept of "heritage" conveys the proposition that common areas should be regarded as inheritances transmitted down to heirs, or as estates which by birthright are passed down from ancestors to present and future generations.33 A CHM regime would therefore designate that region as an international patrimony, much the same as a piece of property or estate inherited by one generation from its predecessor.34 Thus, a CHM regime would insist **that all activities in or around the international area should respect the interests of future generations, especially in making decisions that affect whether, when and how the region's resources are to be used, exploited, developed and distributed. In legal terms, the concept of "common heritage" would require that serious scrutiny be given to every activity in the area in order to prevent resource waste and to preclude environmental abuse. To fail in the protection, conservation, preservation and** prudential **management of the region and its resources would breach the trust and legal obligation implicit in responsibly supervising the earth's heritage for mankind in the future.35**

**The common heritage principle rules out private appropriation**

**Joyner 86**

Christopher C. Joyner (Professor of Government and Foreign Service at Georgetown University). Legal Implications of the Concept of the Common Heritage of Mankind. International and Comparative Law Quarterly, 35(01), 190–199. 1986. JDN. https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/legal-implications-of-the-concept-of-the-common-heritage-of-mankind/27C87188CE97BA536F9FE5DD8E048C78

Five principal elements appear to characterise the "common heritage of mankind" notion when applied to common space areas. First, these regions would not be subject to appropriation of any kind, either public or private, national or corporate.4 Under **the CHM doctrine, common space areas would be regarded legally as regions owned by no one, though hypothetically managed by everyone.** Sovereignty would be absent, as would all its legal attributes and ramifications.5 Thus, no jurisdictional privileges, rights or obligations determined by sovereignty considerations would exist; there would be no sovereign authority in the Austinian sense to set policy or to issue commands; and no agent of any authority would exist to enforce such commands in the region.6 In short, an international area under **a Common Human Heritage regime could not be owned legally in whole or in part by any State or group of States; legally the entire area would be administered by the international community.7**

### Onto my 2nd Contention

### Dangers associated with private appropriation

**Private appropriation of space causes conflict between countries and puts our already established allies at risk.**

**Finkelstein and Nevitt 18**

Claire Finkelstein, Claire Finkelstein is the Algernon Biddle Professor of Law and Professor of Philosophy, and director of the Center for Ethics and the Rule of Law at the University of Pennsylvania. Mark Nevitt is the Sharswood Fellow at University of Pennsylvania Law School. "Trump risks leading the world into a space arms race." TheHill, 21 Aug. 2018, thehill.com/opinion/national-security/402640-trump-risks-leading-the-world-into-a-space-arms-race. [QC]

A motive might be sought in the potentially profitable commercial ventures in outer space, such as asteroid mining, for which the president has voiced support. The president may imagine that a Space Force is the way to gain control over and protect the valuable assets involved. However, this way of thinking is risky. Currently, outer space is “militarized” but not yet “weaponized.” **Militaries around the globe make heavy use of satellite technology** — such as surveillance and global positioning — but so far **they have refrained from placing weapons on satellites in outer space or using them directly for warfighting**. The administration’s ad hoc push for space dominance risks upsetting a delicate balance: space now hovers precariously at the brink of weaponization and it would take only one major country defecting from the current system of peaceful self-constraint to drive us into a major arms race in outer space. The current peaceful equipoise is largely because of the remarkable success of the 1967 Outer Space Treaty, an international agreement with which more than 100 signatory countries have been compliant. Under this treaty, space is considered a “province of mankind” that is not owned or controlled by any single nation. Article IV of the treaty provides that celestial bodies be used “for peaceful purposes only,” and objects in orbit carrying nuclear or weapons of mass destruction are strictly prohibited. Article II of the treaty makes clear that outer space “is not subject to national appropriation by claim of sovereignty**.”Seeking military dominance in space, coupled with encouraging appropriation of space for commercial purposes, puts us at loggerheads with our traditional allies, upsets stable and well-established treaty obligations, and moves the world closer to a highly dangerous arms race in outer space.** It is important to distinguish the idea of a Space Force from the pursuit of military and economic superiority in space. There may not be anything intrinsically wrong with the idea of a Space Force, or in somewhat more moderate form, a “Space Corps,” similar to the Marine Corps, or a “Space Command,” as Congress has called for in the 2019 National Defense Authorization Act, which President Trump signed into law last Monday. The merits of a stand-alone space unit depend on how its mission is conceived and how it fits into broader U.S. policy objectives in outer space, but a thoughtful, coherent and measured inter-agency space policy has yet to emerge. The danger comes from the aim of dominance, not the particular way in which dominance is sought. **In addition to potentially touching off an arms race of planetary proportions, there could be an economic race over space resources, comparable to the emerging fight over the Arctic or over deep-sea fishing rights. The combination of space weaponization and space commercialization easily could thrust us into a new cold war (or worse).** A hot war in outer space is unthinkable, and we cannot let it occur.

**Conflict in space is a major threat with risks of escalation**

**Grego 15**

LAURA GREGO is a physicist in the Global Security program at UCS. She is an expert in space weapons and security; ballistic missile proliferation; and ballistic missile defense. "Preventing Space War." <https://allthingsnuclear.org/lgrego/preventing-space-war>

So says a very good New York Times editorial “Preventing a Space War” this week. Sounds right, if X-Wing fighters come to mind when you think space conflict. But in reality **conflict in space is both more likely than one would think** and less likely to be so photogenic. Space as a locus of conflict The Pentagon has known that space could be a flash point at least since the late 1990s when it began including satellites and space weapons in earnest as part of its wargames. The early games revealed some surprises. For example, attacking an adversary’s ground-based anti-satellite weapons before they were used could be the “trip wire” that starts a war: in the one of the first war games, an attack on an enemy’s ground-based lasers was meant to defuse a potential conflict and protect space assets, but instead was interpreted as an act of war and initiated hostilities. The games also revealed that **disrupting space-based communication and information flow or “blinding” could rapidly escalate a war,** eventually leading to nuclear weapon exchange. **The war games have continued over the years with increased sophistication, but continue to find that conflicts can rapidly escalate and become global when space weapons are involved, and that even minor opponents can create big problems**. The report back from the 2012 game, which included NATO partners, said these insights have become “virtually axiomatic.” Participants in the most recent Schriever war games found that when space weapons were introduced in a regional crisis, it escalated quickly and was difficult to stop from spreading. The compressed timelines, the global as well as dual-use nature of space assets, the difficulty of attribution and seeing what is happening, and the inherent vulnerability of satellites all contribute to this problem. Satellite vulnerability & solutions Satellites are valuable but, at least on an individual basis, physically vulnerable. Vulnerable in that they are relatively fragile, as launch mass is at a premium and so protective armor is too expensive, and a large number of low-earth-orbiting satellites are no farther from the earth’s surface than the distance from Boston to Washington, DC.

#### Private space appropriation leads to a massive increase in space junk, Holden 18

John Holden, July 12, 2018, The Irish Times, Why space capitalism will eat itself, https://www.irishtimes.com/business/innovation/why-space-capitalism-will-eat-itself-1.3556368

Which is great because when it comes to exploring space the end justifies the means. But now we must deal with the fallout from turning our galaxy into another market. Wild West It would be trite to compare the commercial space sector to the American Wild West. But with no one policing the burgeoning industry, **businesses operate untethered in a market where there are no rule**s and no open channels of communication**. It means satellites are launched unchecked every day by anyone** – from the amateur enthusiast in her back garden to major international space co-operatives. **It’s nearly impossible to know what’s really going on up there**. US officials believe there **are about half a million man-made objects floating around in orbit. But that’s about as specific as they can get.** Not very scientific. The only thing more predictable than tired Wild West analogies is the human species itself. We are a predictable bunch, prone to making the same mistakes over and over. As such, we enter a new era where space pollution is an issue. What could be a more iconic symbol of our wretched love for creating waste than flying devices designed never to return? Earlier this year, India broke all previous records by launching 104 satellites at once into orbit. Cool. Except those **104 satellites are destined to become 104 (or more) pieces of trash floating around in space.** That’s right. Satellite technology, in its current state, is the new “lightbulb” of planned obsolescence. What could be a more iconic symbol of our wretched love for creating waste than flying devices designed never to return? When a satellite’s mission is complete, or it malfunctions, it’s gone. Girl, bye. **“Space junk” makes up a significant proportion of the guesstimated 500,000 plus objects floating around in orbit. About 23,000 of these objects are currently being tracked and maintained by the US Strategic Command. These so-called resident space objects are either satellites still in use or are known objects no longer fit for purpose. They could be as small as a tennis ball or the size of a double decker bus. I**n addition, however, **there are hundreds of thousands of other objects – bolts, exploded satellite pieces, large rockets and other space debris – that are unaccounted for. Efforts have been made to try to consolidate public with private data on what is up there but, for various reasons, the space community does not openly share information on where all objects are located.** Lack of regulation For the entrepreneurially inclined, it is probably not that surprising to hear **many are taking advantage of the severe lack of regulation in space**. Sure why wouldn’t you? Moreover why would anyone publicly disclose how and where their interests lie in a given market, intergalacticor otherwise, if they weren’t obliged to? But space isn’t just another market. Thinking one can apply the same rules up there as we use on earth is shortsighted for so many reasons. Down here the economic “unknowns” are known. Space is replete with unknown unknowns. If a satellite that is used to collect data to sell on to business customers one day stops sending data, and you haven’t the foggiest notion why, what do you tell the customers? How do you attribute cause? How does a company predict the likelihood of loss or damage to its equipment in space or perform other prudent exercises before getting into the space game? One of the chief concerns for any new business is risk and how to mitigate it. There couldn’t be a much riskier bet than entering a market with no regulation, patchy knowledge of your competitors’ location or size, and to top it all off, little understanding of the physical environment within which the business will operate. Until everyone is economically incentivised to behave responsibly in space, the chaos will continue. With aplomb. It won’t last forever though. The current lack of regulation is, in itself, the mother of all gaps in the biggest market civilization may ever exploit. And the Trump administration is the first to corner it. Suddenly the decision to give responsibility for space traffic management issues to the commerce department, and not the FAA, begins to make sense.

#### Private appropriation is clearly outlawed under the Outer Space Treaty

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 Telecommunications). "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 nonappropriation 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 celestial 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

**And now, if my judge and opponent are ready, we may go into cross-x**