# 1NC Palm Classic R2 vs. Strake Jesuit JK

## Offs

### T

#### Interpretation: The aff may not defend that appropriation via production of space debris is unjust.

#### “Appropriation of outer space” by private entities refers to the exercise of exclusive control of space.

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“Appropriation of outer space, therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence, which limits other nations’ access to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

#### Prefer –

#### 1] Ground – A] they can fiat that a bad use of space is unjust tautologically or functionally trivially true like “appropriation by creating planetary bombs out of asteroids is unjust” – that’s not just hypothetical because there’s no nonarbitrary brightline and this aff is literally banning producing things that are non-functional and have no positive effects – hold the line. B] it means the aff can skirt uniqueness conditions by just saying it’s unjust to DO something, which guts research skills and neg ground

#### 2] Topic literature and precision –

#### A] use is not the same thing as appropriation.

Jakhu, R. S., & Pelton, J. N. (Eds.). (2017). *Global Space Governance: an international study*. Springer International Publishing. pg 123

**Article II of the Outer Space Treaty prohibits appropriation by any means** and is considered a norm of customary international law [Galloway, 2004, p. 312; Cheng, 1997, p. 465; Freeland & Jakhu, 2009, p. 46; Pop, 2009, p. 38; Lee & Eylward, 2005, pp. 98–99; Lyall & Larsen, 2009, p. 71; Schwetje, 1987, p. 141]. There are “legal complications arising from the prolonged occupation of, particularly, parts of celestial bodies through exploration or use. Such occupation can easily come into conflict with the ‘free access’ principle which is inherent in the concept of non- appropriation” [Cheng, 1997, p. 400]. Therefore, **one must ask whether**, in the context of the present global governance regime, **the result of perpetual use of an orbital slot, the location of a permanent facility on a celestial body, or the consumption of an asteroid for resource utilization is tantamount to appropriation. Such extensive occupation of outer space as described above cannot constitute a legal appropriation or conferral of ownership over portions of space or celestial bodies** [Freeland & Jakhu, 2009, pp. 53–54; Oduntan, 2012, p. 189]. **The freedom of access and use of outer space, as articulated under Article I of the Outer Space Treaty, is a fundamental rule of both treaty-based and customary inter- national law [Cheng, 1965]. It is argued that assuming (claiming) exclusive rights to outer space or celestial bodies is not permitted in accordance with the right of free access** [Tucker, 2009, p. 601]. Although exclusivity is not permitted with regard to land, exclusivity can be exercised with regard to space stations and facilities [Lee & Eylward, 2005, p. 100].

#### B] OST intent proves a distinction between objects brought to space are not appropriation,

Michelle L.D. Hanlon, LLM Air and Space Law @ McGill, JD magna cum laude Georgetown Law Center, BA Political Science @ Yale, ‘18, "The Space Review: Our fear of “heritage” imperils our future," No Publication, <https://www.thespacereview.com/article/3450/1>

Nor are the landing sites protected under international law. Current space treaties do not cover historic preservation or cultural heritage. Sure, Article VIII of the Outer Space Treaty and the Return and Rescue Agreement confirm that all space objects remain the possession of the State to whom they belong. If found, they must be returned. This does not protect the sites themselves, or the artifacts that scientists, engineers, and archaeologists would like to analyze in situ. Article III of the Liability Convention states that entities can be liable “in the event of damage being caused to a space object,” but how is damage defined in respect of an already nonoperational space object? And what about the sites? Article XII of the Outer Space Treaty suggests that states retain some control over their “stations, installations, equipment and space vehicles” but that such sites shall be open to others on the basis of “reciprocity.” But taken literally and to the extreme, this could mean that a state can essentially claim sovereignty over any area in which its equipment is strewn. Surely this is not the intent of the law?

#### Putting things in space is not the core lit – it’s a question of property OF space not property IN space – otherwise Apollo Missions would have violated the OST. Precision outweighs – absent a hard limit, there’s no basis for negative preparation, decking a stasis point that’s key to clash and engagement. It’s also most jurisdictional since the tournament invite requires you to vote in context of the topic

#### 3] Philosophy education – they sidestep any attempt to link into a property NC because they can claim they indict the use not the ownership. That’s core neg ground on an unlimited topic and key to in-depth philosophical education that’s constitutive of LD and a prerequisite to determining whether other voters are justified.

Fairness

DTD

CI

No RVI

### T

#### Interp: The 1AC plan text must defend a ban, not a regulation.

#### Unjust merely implies immorality, Cambridge:

<https://dictionary.cambridge.org/us/dictionary/english/unjust> //LHP AV

**not**[**morally**](https://dictionary.cambridge.org/us/dictionary/english/morally)[**right**](https://dictionary.cambridge.org/us/dictionary/english/right); not [fair](https://dictionary.cambridge.org/us/dictionary/english/fair):

#### Violation: They defend a fee on appropriation. No evidence in the aff proves no solvency advocate and should strengthen our abuse and makes explosiion of limtits and topic literature violations inevitable because they have no grounding

#### Vote neg

#### 1]ground – the plan still allows appropriation which means they can skirt all appropriation good ground, which is our only offense on this topic.

#### 2] Precision – they’re not topical independently because they still allow appropriation and change nothing about that itself.

### NC

#### Only constructing ethics from our rational agency can explain the sources of normativity –

#### A] Bindingness – Any obligation must not only tell us what is good, but why we ought to be good or else agents can reject the value of goodness itself. That means ethics must start with what is constitutive of agents since it traces obligations to features that are intrinsic to being an agent – as an agent you must follow certain rules. Only practical agency is constitutive since agents can use rationality to decide against other values but the act of deciding to reject practical agency engages in it.

#### B] Action theory – every moral analysis requires an action to evaluate, but actions are infinitely divisible into smaller meaningless movements. The act of stealing can be reduced to going to a house, entering, grabbing things, and leaving, all of which are distinct actions without moral value. Only the practical decision to steal ties these actions together to give them any moral value.

#### That justifies universalizability.

#### A] The principle of equality is true since anything else assigns moral value to contingent factors like identity and justifies racism, and the principle of non-contradiction is true since 2+2 can’t equal 4 for me and not for you meaning ethical statements true for one must be true for all.

#### B] Ethics must be defined a priori because of the is ought gap – experience only tells us what is since that’s what we perceive, not what ought to be. But it’s impossible to derive an ought from descriptive premises, so there needs to be additional a priori premises to make a moral theory. Applying reason to a priori truth results in universal obligations.

#### Coercion isn’t universalizable—willing your own freedom while violating someone else’s is a conceptual contradiction.

Engstrom [Stephen Engstrom, (Professor of Philosophy @ the University of Pittsburgh) "Universal Legislation as the Form of Practical Knowledge" http://www.academia.edu/4512762/Universal\_Legislation\_As\_the\_Form\_of\_Practical\_Knowledge, DOA:5-5-2018 // WWBW]

Given the preceding considerations, it’s a straightforward matter to see how **a maxim of action that assaults the freedom of others** with a view to furthering one’s own ends results in a contradiction when we attempt to will it as a universal law in accordance with the foregoing account of the formula of universal law. Such a maxim **would lie in a practical judgment that deems it good on the whole to act to limit others’ outer freedom**, and hence their self-sufficiency, their capacity to realize their ends, **where doing so augments, or extends, one’s own outer freedom** and so also one’s own self-sufficiency.  Now on the interpretation we’ve been entertaining, applying the formula of universal law involves considering whether it’s possible for every person—every subject capable of practical judgment—to share the practical judgment asserting the goodness of every person’s acting according to the maxim in question. Thus in the present case the application of the formula involves considering whether it’s possible for every person to deem good every person’s acting to limit others’ freedom, where practicable, with a view to augmenting their own freedom. Since here **all persons are** on the one hand **deeming good both the limitation of others’ freedom and the extension of their own freedom, while** on the other hand, insofar as they agree with the similar judgments of others, **also deeming good the limitation of their own freedom and the extension of others’ freedom, they are all deeming good both the extension and the limitation of both their own and others’ freedom. These judgments are inconsistent** insofar as the extension of a person’s outer freedom is incompatible with the limitation of that same freedom.

#### Prefer –

#### A] performativity – argumentation requires the assumption that freedom is good – else agents would be unable to make arguments

#### B] prerequisite – condoning any action requires condoning the freedom required to take that action – so my theory’s a prerequisite to theirs and my offense acts as a side-constraint to your framework.

#### C] culpability – absent a conception of free will, people can just claim they were acting of desires they can’t control.

#### The universality of freedom justifies a libertarian state. Otteson 09

Otteson 09 brackets in original James R. Otteson (professor of philosophy and economics at Yeshiva University) “Kantian Individualism and Political Libertarianism” The Independent Review, v. 13, n. 3, Winter 2009

In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: **let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law**” (1991, 133, emphasis in original).5 **This** stipulation **becomes** for Kant **the grounding justification for the existence of a state**, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that **the state may**—indeed, must—**secure this condition** of freedom, **but undertake to do nothing else because any other** state **activities** would **compromise** **the** very **autonomy the state seeks to defend**. **Kant’s position** thus outlines and implies a political philosophy that **is broadly libertarian**; that is, **it endorses a state constructed with the sole aim of protecting** its citizens **against invasions of** their **liberty**. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, **individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for** their own or **others**’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 **this** severe limitation on the scope of the state’s authority **must always be respected**: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that **a Kantian state protects** against invasions of **freedom and does nothing else**; in the absence of invasions or threats of invasions, it is inactive.

#### Thus, the standard is consistency with a libertarian state.

#### Impact calc – Aggregation fails – there is no one for whom aggregate good is good-for. Korsgaard:

Christine Korsgaard, “The Origin of the Good and Our Animal Nature” Harvard, n.d. RE

According to the second view I will consider, hedonism, the good just is pleasurable experience or consciousness and the absence of painful experience or consciousness. What makes a being capable of having a final good is simply that the being is conscious. Otherwise, its good is not relative to its nature. As is often noticed, on this theory it is a real question whether some of the other animals might not have a better life, or at least be capable of having a better life, than human beings, given their apparent enthusiasm for simple and readily available joys. Although I’ll treat it as a separate theory, hedonism, I believe, has an inherent tendency to collapse either into a version of the intrinsic value theory, or into a version of the third view I am about to describe. Obviously, it is possible to regard hedonism simply as a particular instance of the intrinsic value theory, one that singles out conscious experience as the only possible bearer of intrinsic value. But I think this way of looking at hedonism does not do justice to the intuition that has made hedonism seem plausible to so many thinkers, which is precisely the idea that the final good must have an irreducibly subjective or relational element. That is, what makes hedonism seem plausible is precisely the idea that the final good for a sensate being must be something that can be felt or experienced as a good by that being. It is something that can be perceived or experienced as welcome or positive from the being’s own point of view, and that is therefore relative to the being’s own point of view.9 The intrinsic value version of hedonism tries to capture the essentially subjective element of the final good by attaching objective intrinsic value to a subjective experience, but when this move is made the essentially relational or relative character of subjectivity tends to drop out. The goodness of the experience is detached from its goodness for the being who is having the experience, and instead is located in the character of the experience itself. This defect shows up most clearly in utilitarian versions of hedonism, which allow us to add the goodness of pleasant experiences across the boundaries between persons or between animals. There is no subject for whom the total of these aggregated experiences is a good, so the aggregate good has completely lost that relational character: the goods are detached from the beings from whom they are good. This relational element of value, I believe, is better captured by the third theory I am about to describe.

#### Negate –

#### 1] Injustice requires someone wronged, but initial acquisition doesn’t violate any entity’s rights– therefore, private appropriation of outer space cannot be unjust, Feser 05:

Edward Feser, [Associate Professor of Philosophy at Pasadena City College] “THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION,” 2005 //LHP AV

The reason **there is no such thing as an unjust initial acquisition** of resources is that there is no such thing as either a just or an unjust initial acquisition of resources. The concept of **justice**, that is to say, simply **does not apply** to initial acquisition. **It applies only after initial acquisition has already taken place**. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer). This, it seems to me, is a clear implication of the assumption (rightly) made by Nozick that **external resources are initially unowned**. Consider the following example. **Suppose** **an individual** **A seeks to acquire some previously unowned resource R**. **For it to be** the case that A commits an **injustice** in acquiring R, it would also have to be the case that **there is some individual** **B** (or perhaps a group of individuals) **against whom A commits the injustice**. **But for B to have been wronged** by A’s acquisi- tion of R, **B would have to have had a rightful claim over R,** **a right to R**. By hypothesis, **however**, **B did not have a right to R, because no one had a right to it—it was unowned, after all**. So B was not wronged and could not have been. In fact, **the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R**. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. **The same thing, by extension, will be true of all unowned resources: it is only after some- one has initially acquired them that anyone could unjustly come to possess them, via unjust transfer**. It is impossible, then, for there to be any injustices in initial acquisition.7

#### 2] Submitting to international limits on power is a contradiction in will – it weakens the republic and has no binding force.

Waltz ’62 (Waltz, Kenneth N. "Kant, Liberalism, and War." The American Political Science Review 56, no. 2 (1962): 331-40. doi:10.2307/1952369.)

So long at least as the state "runs a danger of being suddenly swallowed up by other States," it must be powerful externally as well as internally. In international relations the difficulties multiply. The republican form is preferable, partly because republics are more peacefully inclined; but despotisms are stronger-and no one would expect or wish to bring the state into jeopardy by decreasing its strength.15 Standing armies are dangerous, arms races themselves being a cause of war, but in the absence of an outside agency affording protection, each state must look to the effectiveness of its army.'6 A freely flowing commerce is a means of promoting peace, but a state must control imports, in the interests of its subjects "and not for the advantage of strangers and the encouragement of the industry of others, because the State without the prosperity of the people would not possess sufficient power to resist external enemies or to maintain itself as a common- wealth."'7 Not only standing armies but also, indeed more so, the disparity of economic capacities may represent danger, occasion fear, and give rise to war. Kant's concern with the strength and thus the safety of the state is part of his perception of the necessities of power politics. Among states in the world, as among individuals in the state of nature, there is constantly either violence or the threat of violence. States, like "lawless savages," are with each other "naturally in a nonjuridical condition.'8 There is no law above them; there is no judge among them; there is no legal process by which states can pursue their rights. They can do so only by war, and, as Kant points out, neither war nor the treaty of peace following it, can settle the question of right. A treaty of peace can end only a particular war; a pretext for new hostilities can always be found. "Nor can such a pretext under these circumstances be regarded as un- just; for in this state of society every nation is the judge of its own cause."'19 More surely than those who extract and emphasize merely Kant's republican aspirations and peaceful hopes, Khrushchev speaks as though he had read Kant correctly. "War," in Khrushchev's peculiar yet apt phrase, "is not fatalistically inevitable." Kant does set forth the "shoulds" and "oughts" of state behavior.2' He does not expect them to be followed in a state of nature, for, as he says, "philosophically or diplomatically composed codes have not, nor could have, the slightest legal force, since the States as such stand under no common legal constraint.... 22 His intention clearly is that the "oughts" be taken as the basis for the juridical order that must one day be established among states, just as the rights of the individual, though not viable in a state of nature, provided the basis for the civil state.

## Case