### Interp: “appropriation of outer space” by private entities refers to the exercise of exclusive and permanent control of space.

**TRAPP** **’13**,

(“**Appropriation of outer space**, **therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence,**

**Common usage also concludes appropriation is the taking of or exercise of control over property**

**Bohm 13** [

**"Appropriation" is defined as "the exercise of control over property; a taking of possession."**

**Court precedent affirms appropriation is permanent occupation not temporary use**

**Marshall 82**

an actual, permanent invasion of the land, amounting to an appropriation "The use is an exclusive and, and not temporary, recent cases confirm the distinction between a permanent physical occupation, , and a regulation that restricts use of property

**Violation –**

**i.e. the aff bans private entities, which both fails to establish sovereign possession over regions that are toured and fails to establish permanent appropriation since trips enter and leave regions in outer space**

**Vote neg:**

1. **Limits – their interp explodes the topic to include affs about using space for any single purpose, like military deployments, and climate adaptation satellites,– this is unpredictable because topic lit is concerned with sovereignty over space and space colonization broadly, privileges the aff by stretching pre-tournament neg prep too thin and precludes nuanced case negs that rigorously test the aff**
2. **Precision first – Justifies the aff arbitrarily doing away with words in the resolution which gives way to affs about anything from public appropriation affs to air space affs and many more which obliterates negative prep.**
3. **Ground – allowing debates about extracting any space resource denies the neg links to core generics like space col good, which only answers affs that broadly prohibit states from using space – this kills testing and forces negatives to the fringes of argumentation like generic Ks that are stale and vulnerable to aff prep-outs**

**Fairness and education are voters – debate’s a game that needs rules to evaluate it and education gives us portable skills for life like research and thinking.**

**.**

**No RVIs – a) illogical – you shouldn’t win for being fair – it’s a litmus test for engaging in substance, b) norming – I can’t concede the counterinterp if I realize I’m wrong which forces me to argue for bad norms, c) baiting – incentivizes good debaters to be abusive, bait theory, then collapse to the 1AR RVI, d) topic ed – prevents 1AR blipstorm scripts and allows us to get back to substance after resolving theory**

## **Climate Change DA**

#### **Supreme court is resisting climate action at every turn – Biden overcomes its limited influence now, but a more powerful judiciary directly trades off with green policies**

**Worland 20**

. A Supreme Court remade in the vision of the right could take aim at climate change a more conservative Court would limit them.

That wouldn’t necessarily doom presidential attempts “It’s not a death knell,”But it’s going to require great care by Congress to avoid problems.”

conservatives touted the “nondelegation doctrine limited success using that argument in court but that could easily change if the Supreme Court shifts ideologically.

A hard right turn by the Court—would clearly pose deep challenges for a Administration,.

#### **OST bans private mining now – US exploration laws directly contravene**

**TRAPP**,**’13**

**whether private entities can appropriate property in space** nation recognized and enforced such a claim, this enforcement would constitute state action. Outer Space Treaty also requires that non-governmental entities must be authorized and monitored by the entities’ home countries to operate in space **a nation would not be allowed to license a private entity to appropriate property in space**.

#### **That applies Charming Betsy(the idea that national statutes should be interpreted to minimize clash with international law) to private sector space laws that unambiguously contravene the OST – that expands the scope of the doctrine and creates judicial overreach – courts can abrogate participation in any international agreement**

**Bean 15**

Applying Charming Betsy should be predicated on textual ambiguity as the modern precedent suggests. When courts apply textually unambiguous statutes—separation-of-powers concerns arise Congress is required by the courts to abrogate an international agreement. The choice is best left to the political branches not the judiciary. this role is wholly inappropriate

#### **A robust web of international commitments and treaties with US participation is necessary for global climate action – abrogation would be devastating**

**Newburger 20**

climate targets under the Paris accord are not sufficient**.** “U.S. leadership to cut CO2 emissions were key to getting Paris on track,”. “Continued U.S. involvement and leadership is key to any effort to stop climate change.”, the U.S. will have to rebuild trust Biden has said that the U.S. will recommit to its emissions reduction goals

#### **It’s try or die – warming makes extinction inevitable** –

**Henderson, ‘6**. Scientific understanding increasingly points to warming leading to human extinction. If security measures are not put in place to keep further emissions out of the atmosphere we are looking at the end of existence,

#### **Turns the case in a matter of years**

**Harris, ‘4**.

Climate change could result in . Nuclear conflict, across the world. abrupt climate change could bring countries develop a nuclear threat to defend dwindling supplies., warfare would define human life.'

# **Space Deterrence DA**

#### **Space Commercialization is key to Space Deterrence – Commercial Flexibility is key to deterrence by denial.**

Klein 19, John J. Understanding space strategy: the art of war in space. Routledge, 2019. (a Senior Fellow and Strategist at Falcon Research, Inc. and Adjunct Professor at George Washington University’s Space Policy Institute)//Elmer

Recent U.S. space policy initiatives underscore the far-reaching benefits of commercial space activities. The White House revived the National Space Council to foster closer coordination, cooperation, and exchange of technology and information among the civil, national security, and commercial space sectors.1 National Space Policy Directive 2 seeks to promote economic growth by streamlining U.S. regulations on the commercial use of space.2 While the defense community generally appreciates the value of services and capabilities derived from the commercial space sector—including space launch, Earth observation, and satellite communications—it often overlooks one area of strategic importance: deterrence. To address the current shortcoming in understanding, this paper first describes the concept of deterrence, along with how space mission assurance and resilience fit into the framework. After explaining how commercial space capabilities may influence the decision calculus of potential adversaries, this study presents actionable recommendations for the U.S. Department of Defense (DoD) to address current problem areas. Ultimately, DoD—including the soon-to-be reestablished U.S. Space Command and possibly a new U.S. Space Force—should incorporate the benefits and capabilities of the commercial space sector into flexible deterrent options and applicable campaign and contingency plans. Deterrence, Mission Assurance, and Resilience Thomas Schelling, the dean of modern deterrence theory, held that deterrence refers to persuading a potential enemy that it is in its interest to avoid certain courses of activity.3 One component of deterrence theory lies in an understanding that the threat of credible and potentially overwhelming force or other retaliatory action against any would-be adversary is sufficient to deter most potential aggressors from conducting hostile actions. This idea is also referred to as deterrence by punishment.4 The second salient component of deterrence theory is denial. According to Glenn Snyder’s definition, deterrence by denial is “the capability to deny the other party any gains from the move which is to be deterred.”5 The 2018 U.S. National Defense Strategy (NDS) highlights deterrence, and specifically deterrence by denial, as a vital component of national security. The NDS notes that the primary objectives of the United States include deterring adversaries from pursuing aggression and preventing hostile actions against vital U.S. interests.6 The strategy also observes that deterring conflict necessitates preparing for war during peacetime.7 For the space domain, the peacetime preparedness needed for deterrence by denial occurs in the context of space mission assurance and resilience. Mission assurance entails “a process to protect or ensure the continued function and resilience of capabilities and assets—including personnel, equipment, facilities, networks, information and information systems, infrastructure, and supply chains—critical to the performance of DoD mission essential functions in any operating environment or condition.”8 Similar to mission assurance but with a different focus, resilience is an architecture’s ability to support mission success with higher probability; shorter periods of reduced capability; and across a wider range of scenarios, conditions, and threats, despite hostile action or adverse conditions.9 Resilience may leverage cross-domain solutions, along with commercial and international capabilities.10 Space mission assurance and resilience can prevent a potential adversary from achieving its objectives or realizing any benefit from its aggressive action. These facets of U.S. preparedness help convey the futility of conducting a hostile act. Consequently, they enhance deterrence by denial. Commercial Space Enables Deterrence The commercial space sector directly promotes mission assurance and resilience efforts. This is in part due to the distributed and diversified nature of commercial space launch and satellites services. Distribution refers to the use of a number of nodes, working together, to perform the same mission or functions as a single node; diversification describes contributing to the same mission in multiple ways, using different platforms, orbits, or systems and capabilities.11 The 2017 U.S. National Security Strategy, in noting the benefits derived from the commercial space industry, states that DoD partners with the commercial sector’s capabilities to improve the U.S. space architecture’s resilience.12 Although U.S. policy and joint doctrine frequently acknowledge the role of the commercial space sector in space mission assurance and resilience, there is little recognition that day-to-day contributions from the commercial industry assists in deterring would-be adversaries. The commercial space sector contributes to deterrence by denial through multi-domain solutions that are distributed and diversified. These can deter potential adversaries from pursuing offensive actions against space-related systems. Commercial launch providers enhance deterrence by providing options for getting payloads into orbit. These include diverse space launch capabilities such as small and responsive launch vehicles, along with larger, reusable launch vehicles; launch rideshares for secondary payloads; and government payloads on commercial satellites. Various on-orbit systems also promote deterrence. For example, if an aggressor damages a commercial remote sensing satellite during hostilities, similar commercial satellites in a different orbital regime, or those of the same constellation, may provide the needed imagery. If satellite communications are jammed or degraded, commercial service providers can reroute satellite communications through their own networks, or potentially through the networks of another company using a different portion of the frequency spectrum. Regarding deterrence by punishment efforts, the commercial space sector can play a role, albeit an indirect one, through improved space situational awareness (SSA) and space forensics (including digital forensics and multispectral imagery). The commercial industry may support the attribution process following a hostile or illegal act in space through its increasingly proliferating network of SSA ground telescopes and other terrestrial tracking systems. The DoD may also leverage the commercial space sector’s cyber expertise to support digital forensic efforts to help determine the source of an attack. By supporting a credible and transparent attribution process, commercial partners may cause a would-be adversary to act differently if it perceives that its aggressive, illegal, or otherwise nefarious actions will be disclosed. Doing so can help bolster the perceived ability to conduct a legitimate response following a hostile attack, which may improve deterrence by punishment efforts. Commercial space capabilities may also facilitate the application of force to punish a potential aggressor. In addition to traditional military space systems, commercial satellite imagery and communication capabilities may be used in cueing and targeting for punitive strikes against an aggressor. Although the commercial space sector is not expected to be involved directly in the use of retaliatory force following a hostile act, commercial partners may help in providing the information used to identify those responsible and to facilitate any consequent targeting efforts.

#### **Space Deterrence Breakdowns causes War and Extinction**.

Parker 17 Clifton Parker 1-24-2017 “Deterrence in space key to U.S. security” <https://cisac.fsi.stanford.edu/news/deterrence-space-key-us-security> (Policy Analyst at the Stanford Center for International Security and Cooperation)//Elmer

Space is more important than ever for the security of the United States, but it’s almost like the Wild West in terms of behavior, a top general said today. Air Force Gen. [John Hyten](http://www.af.mil/AboutUs/Biographies/Display/tabid/225/Article/108115/general-john-e-hyten.aspx), commander of the U.S. Strategic Command, spoke Jan. 24 at Stanford’s [Center](http://cisac.fsi.stanford.edu/) for International Security and Cooperation. His [talk](http://cisac.fsi.stanford.edu/events/us-strategic-command-perspectives-deterrence-and-assurance) was titled, “U.S. Strategic Command Perspectives on Deterrence and Assurance.” Hyten said, “Space is fundamental to every single military operation that occurs on the planet today.” He added that “there is no such thing as a war in space,” because it would affect all realms of human existence, due to the satellite systems. Hyten advocates “strategic deterrence” and “norms of behavior” across space as well as land, water and cyberspace. Otherwise, rivals like China and Russia will only threaten U.S. interests in space and wreak havoc for humanity below, he said. Most of contemporary life depends on systems connected to space. Hyten also addressed other topics, including recent proposals by some to upgrade the country’s missile defense systems. “You just don’t snap your fingers and build a state-of-the-art anything overnight,” Hyten said, adding that he has not yet spoken to Trump administration officials about the issue. “We need a powerful military,” but a severe budget crunch makes “reasonable solutions” more likely than expensive and unrealistic ones. On the upgrade front, Hyten said he favors a long-range strike missile system to replace existing cruise missiles; a better air-to-air missile for the Air Force; and an improved missile defense ground base interceptor. ‘Critically dependent’ From satellites to global-positioning systems GPS, space has transformed human life – and the military – in the 21st century, Hyten said. In terms of defining "space," the U.S. designates people who travel above an altitude of 50 miles as astronauts. As the commander of the U.S. Strategic Command, Hyten oversees the control of U.S. strategic forces, providing options for the president and secretary of defense. In particular, this command is charged with space operations (such as military satellites), information operations (such as information warfare), missile defense, global command and control, intelligence, surveillance, and reconnaissance, global strike and strategic deterrence (the U.S. nuclear arsenal), and combating weapons of mass destruction. Hyten explained that every drone, fighter jet, bomber, ship and soldier is critically dependent on space to conduct their own operations. All cell phones use space, and the GPS command systems overall are managed at Strategic Command, he said. “No soldier has to worry about what’s over the next hill,” he said, describing GPS capabilities, which have fundamentally transformed humanity’s way of life. Space needs to be available for exploration, he said. “I watch what goes on in space, and I worry about us destroying that environment for future generations.” He said that too many drifting objects and debris exist – about 22,000 right now. A recent Chinese satellite interception created a couple thousand more debris objects that now circle about the Earth at various altitudes and pose the risk of striking satellites. “We track every object in space” now, Hyten said, urging “international norms of behavior in space.” He added, “We have to deter bad behavior on space. We have to deter war in space. It’s bad for everybody. We could trash that forever.” But now rivals like China and Russia are building weapons to deploy in the lower levels of space. “How do we prevent this? It’s bigger than a space problem,” he said. Deterring conflict in the cyber, nuclear and space realms is the strategic deterrence goal of the 21st century, Hyten said. “The best way to prevent war is to be prepared for war,” he said. Hyten believes the U.S. needs a fundamentally different debate about deterrence. And it all starts with nuclear weapons. “In my deepest heart, I wish I didn’t have to worry about nuclear weapons,” he said. Hyten described his job as “pretty sobering, it’s not easy.” But he also noted the mass violence of the world prior to 1945 when the first atomic bomb was used. Roughly 80 million people died from 1939 to 1945 during World War II. Consider that in the 10-plus years of the Vietnam War, 58,000 Americans were killed. That’s equivalent to two days of deaths in WWII, he said. In a world without nuclear weapons, a rise in conventional warfare would produce great numbers of mass casualties, Hyten said. About war, he said, “Once you see it up close, no human will ever want to experience it.” Though America has “crazy enemies” right now, in many ways the world is more safe than during WWII, Hyten said. The irony is that nuclear weapons deterrence has kept us from the type of mass killings known in events like WWII. But the U.S. must know how to use its nuclear deterrence effectively. Looking ahead, Hyten said the U.S. needs to think about space as a potential war environment. An attack in space might not mean a response in space, but on the Earth. Hyten describes space as the domain that people look up at it and still dream about. “I love to look at the stars,” but said he wants to make sure he’s not looking up at junk orbiting in the atmosphere.

### Case

1] No debris cascades—This ev answers all aff warrants

Fange 2017 (Daniel Von Fange, Web Application Engineer, Founder and Owner of LeanCoder, Full Stack, Polyglot Web Developer, “Kessler Syndrome is Over Hyped”, 5/21/2017, http://braino.org/essays/kessler\_syndrome\_is\_over\_hyped/)

Kessler Syndrome is overhyped. A chorus of online commenters great any news of upcoming low earth orbit satellites with worry that humanity will to lose access to space. I now think they are wrong.

What is Kessler Syndrome?

Here’s the popular view on Kessler Syndrome. Every once in a while, a piece of junk in space hits a satellite. This single impact destroys the satellite, and breaks off several thousand additional pieces. These new pieces now fly around space looking for other satellites to hit, and so exponentially multiply themselves over time, like a nuclear reaction, until a sphere of man-made debris surrounds the earth, and humanity no longer has access to space nor the benefits of satellites.

It is a dark picture.

Is Kessler Syndrome likely to happen?

I had to stop everything and spend an afternoon doing back-of-the-napkin math to know how big the threat is. To estimate, we need to know where the stuff in space is, how much mass is there, and how long it would take to deorbit.

The orbital area around earth can be broken down into four regions.

Low LEO - Up to about 400km. Things that orbit here burn up in the earth’s atmosphere quickly - between a few months to two years. The space station operates at the high end of this range. It loses about a kilometer of altitude a month and if not pushed higher every few months, would soon burn up. For all practical purposes, Low LEO doesn’t matter for Kessler Syndrome. If Low LEO was ever full of space junk, we’d just wait a year and a half, and the problem would be over.

High LEO - 400km to 2000km. This where most heavy satellites and most space junk orbits. The air is thin enough here that satellites only go down slowly, and they have a much farther distance to fall. It can take 50 years for stuff here to get down. This is where Kessler Syndrome could be an issue.

Mid Orbit - GPS satellites and other navigation satellites travel here in lonely, long lives. The volume of space is so huge, and the number of satellites so few, that we don’t need to worry about Kessler here.

GEO - If you put a satellite far enough out from earth, the speed that the satellite travels around the earth will match the speed of the surface of the earth rotating under it. From the ground, the satellite will appear to hang motionless. Usually the geostationary orbit is used by big weather satellites and big TV broadcasting satellites. (This apparent motionlessness is why satellite TV dishes can be mounted pointing in a fixed direction. You can find approximate south just by looking around at the dishes in your northern hemisphere neighborhood.) For Kessler purposes, GEO orbit is roughly a ring 384,400 km around. However, all the satellites here are moving the same direction at the same speed - debris doesn’t get free velocity from the speed of the satellites. Also, it’s quite expensive to get a satellite here, and so there aren’t many, only about one satellite per 1000km of the ring. Kessler is not a problem here.

How bad could Kessler Syndrome in High LEO be?

Let’s imagine a worst case scenario.

An evil alien intelligence chops up everything in High LEO, turning it into 1cm cubes of death orbiting at 1000km, spread as evenly across the surface of this sphere as orbital mechanics would allow. Is humanity cut off from space?

I’m guessing the world has launched about 10,000 tons of satellites total. For guessing purposes, I’ll assume 2,500 tons of satellites and junk currently in High LEO. If satellites are made of aluminum, with a density of 2.70 g/cm3, then that’s 839,985,870 1cm cubes. A sphere for an orbit of 1,000km has a surface area of 682,752,000 square KM. So there would be one cube of junk per .81 square KM. If a rocket traveled through that, its odds of hitting that cube are tiny - less than 1 in 10,000.

So even in the worst case, we don’t lose access to space.

Now though you can travel through the debris, you couldn’t keep a satellite alive for long in this orbit of death. Kessler Syndrome at its worst just prevents us from putting satellites in certain orbits.

In real life, there’s a lot of factors that make Kessler syndrome even less of a problem than our worst case though experiment.

* Debris would be spread over a volume of space, not a single orbital surface, making collisions orders of magnitudes less likely.
* Most impact debris will have a slower orbital velocity than either of its original pieces - this makes it deorbit much sooner.
* Any collision will create large and small objects. Small objects are much more affected by atmospheric drag and deorbit faster, even in a few months from high LEO. Larger objects can be tracked by earth based radar and avoided.
* The planned big new constellations are not in High LEO, but in Low LEO for faster communications with the earth. They aren’t an issue for Kessler.
* Most importantly, all new satellite launches since the 1990’s are required to include a plan to get rid of the satellite at the end of its useful life (usually by deorbiting)

So the realistic worst case is that insurance premiums on satellites go up a bit. Given the current trend toward much smaller, cheaper micro satellites, this wouldn’t even have a huge effect.

No solvency- The OST already declares space as a global common resource.

**O’Brien, Dennis. “The Space Review: Is Outer Space a de Jure Common-Pool Resource?” *Space Review*, 25 Oct. 2021, www.thespacereview.com/article/4270/1.**

As 2021 comes to a close, humanity is facing a historical crisis, when just a slight change will lead to widely different futures. The closest parallel occurred five centuries ago, when countries with advanced technology sought to exploit the resources of “new” worlds. The resulting Age of Imperialism was marked by needless war, suffering, and neglect, whose effects are still being felt today. How close are we to repeating that pattern? What role can space law play in avoiding it?

Article II of the OST creates a de jure common-pool resource of outer space and that all subsequent norms, agreements, and activities are subject to it. Any act of exclusion, even for “safety zones,” violates Article II.

As accessing and developing outer space resources becomes more feasible, determining the status of those resources under international law and norms becomes more important. The oldest and most widely accepted binding international treaty 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, aka the Outer Space Treaty of 1967 (OST). The most recent proposed norms are the Artemis Accords (Accords), an inter-agency agreement adopted by NASA and its partners as part of the Artemis Moon program. This article concludes that Article II of the OST creates a de jure common-pool resource of outer space and that all subsequent norms, agreements, and activities are subject to it. It further concludes that any act of exclusion, even for “safety zones,” violates Article II and defeats the common-pool resource. It proposes that sharing access to resources will mitigate the exclusion, maintain the common-pool resource of outer space, and allow resource development activities, including the removal of materials in place (in situ). Finally, it will consider whether the Moon Treaty, with an implementation agreement based on sharing and cooperation, can enhance the development of outer space resources, including the building of permanent settlements

2] Aff never stops Private companies from space travel, they still link into all their impacts