# 1AC

### 1AC – Advantage – Military (2:40)

#### I affirm Resolved - The appropriation of outer space by private entities is unjust.

#### Militarism has coopted the space industry and transformed academia into an adjunct of the military industrial complex

Webb 09 (Dave Webb is a Professor of Engineering Modeling, Director of the 'Praxis Centre" (a multidisciplinary research centre for the 'Study of Information Technology to Peace, Conflict and Human Rights') and a member of the School of Applied Global Ethics at Leeds Metropolitan University. "Securing Outer Space"; "Space Weapons: Dream, nightmare or reality?" Routledge Critical Security Studies Series, 2009)

It appears therefore that the military industrial complex is hard at work here. The US aerospace companies are very good lobbyists - they are constantly reminding politicians about the **number of jobs** that they are generating in their constituencies and they make large donations to both Republican and Democrat parties.They are the sellers of the dreams of **ultimate political control of space** and of the Hatth in return for billion-dollar contracts. The politicians don't know enough about physics to question the projects in any details and nowadays there is a third partner in all this - the universities. The academic world is increasingly involved as funding for science and engineering research projects at universities comes increasingly to depend on the military and aerospace companies - it is questionable as to whether they can be considered to be **neutral** and to give **unbiased** advice to government.

#### Civilian space programs is a smokescreen of tropes and ideology that masks military development---empirically used as the face of American space programs to deflect scrutiny

Michael Sheehan 7, Professor of International Relations, University of Swansea, 2007, The International Politics of Space, p. 43-44

In 1958 the PSAC identified four drivers of the American space programme: the human urge to explore, the need to use space for military purposes to enhance US security, national prestige, and new opportunities for scientific discovery.28 As with the Soviet Union, it was the second and third factors that would be the most compelling for the next two decades. The desire to regain and enhance national prestige would take centre stage in the short-term. Given the nature of the ideological competition between the two superpowers, prestige and national image were crucial not only in terms of how the United States perceived itself, but in terms of how the US was perceived by other countries. US statesman Bernard Baruch argued that ‘we have been set back severely not only in matters of defence and security, but in the contest for the support and confidence of the peoples of the world’.29 US foreign policy was driven by the need to win the hearts and minds of the population of America’s allies, and the uncommitted nations of the ‘Third World’, the non-aligned states neither communist nor pro-American. There was also a need to impress the governments and peoples of the Soviet Union and its allies. In all cases, it was essential that the United States was able to project successfully an image of strength and leadership.

The 1958 Space Act declared that the United States was keen to explore space for ‘peaceful purposes for the benefit of [hu]mankind’, and allowed for ‘cooperation by the United States with other nations and groups of nations’.30 This declaration had a dual purpose. The first statement was designed to deflect attention away from the military dimension of US space research and reduce foreign concerns that the United States was seeking to militarise outer space. The second statement’s purpose was to promote the image of the United States as a scientific leader that was willing to share the development of space with other nations, and which therefore clearly had no hidden agenda beyond space exploration for the general benefit of humanity. In this regard, it fitted in with other US policy initiatives designed to promote the image of the United States as a country eager to cooperate internationally in an open and transparent manner. The Marshall Plan, Atoms-for-Peace and the Peace Corps were all part of this general image-building approach, though all had other motivations as well, as did the space policy.

The apparent separation of civilian and military activities allowed the United States considerable flexibility. By having a largely transparent civilian-dominated programme, American public insecurity was alleviated, yet at the same time the US was able to continue its military programmes away from the glare of national and international scrutiny, and often successfully camouflaged behind actual or fictitious civilian space projects.

In fact, unknown to the American public, there were three, not two space programmes, white, blue and black. The white programme was the high profile civilian programme led by NASA. The blue programme was the classified military programme run by the Department of Defense. In addition, there was the ‘black programme’, the reconnaissance programme run by the intelligence agencies.

The apparent separation of the elements of the US space programme made it easier for the vast majority of the American political establishment to rally behind a substantial and energetic space programme. Liberals could support it as an alternative form of competition with the Soviet Union in an era when the dangers of nuclear war were very real, while conservatives saw the programme as developing military hardware and providing capabilities that would in the long run enhance the effectiveness of US armed forces.31

#### The collapse of the non-appropriation principle causes space arms races and implodes space law – also turns any commercial development impacts

Tronchetti 7 [Fabio Tronchetti, educator at the International Institute of Air and Space Law at Leiden University, 2007, “THE NON-APPROPRIATION PRINCIPLE UNDER ATTACK: USING ARTICLE II OF THE OUTER SPACE TREATY IN ITS DEFENCE,” International Institute of Space Law, https://iislweb.org/docs/Diederiks2007.pdf]/¶

ABSTRACT Since the beginning of the space era, States agreed to consider outer space, including the Moon and other celestial bodies as a res communis omnium, i.e. as an area open for free exploration and use by all States which is not subject to national appropriation. The non-appropriative nature of outer space, first declared in the UN General Assembly Resolution 1721 and 1962, was formally laid down in Article II of the 1967 Outer Space Treaty. Since then, the non-appropriation principle has provided guidance and direction for all activities in the space beyond the earth’s atmosphere. Nowadays, however, the non-appropriation principle is under attack. Some proposals, arguing the need of abolishing this principle in order to promote commercial use of outer space or claiming private ownership rights over the Moon and other celestial bodies, are undermining its importance and questioning its role as a guiding principle for present and future space activities. In order to counter such proposals and to demonstrate their fallacy, this paper stresses the binding legal value of the non-appropriation principle contained in Article II of the Outer Space Treaty by arguing that such principle should be considered a rule of customary international law holding a special character. Indeed, not only is the principle prohibiting national appropriation of outer space affirmed in the main space law treaties and declarations, but it also represents the basis of approach followed by States in elaborating and setting up international space law itself. Therefore, following this interpretation, neither States nor private entities are allowed to act in contrast with the nonappropriation principle and any amendment or modification thereof should only be carried out by all States acting collectively. PRELIMINARY CONSIDERATIONS The non-appropriation principle represents the cardinal rule of the space law system. Since this principle was incorporated in Article II of the Outer Space Treaty (OST)1 in 1967, first declared in the United Nations General Assembly (UNGA) Resolutions 17212 and 19623 , it has provided guidance and basis for space activities and has contributed to 40 years of peaceful exploration and use of outer space. The importance of the non-appropriation principle stems from the fact that it has prevented outer space from becoming an area of international conflict among States. By prohibiting States from obtaining territorial sovereignty rights over outer space or any of its parts, it has avoided the risk that rivalries and tensions could arise in relation to the management of outer space and its resources. Moreover, its presence has represented the best guarantee for the realization of one of the fundamental principles of space law, namely the exploration and use of outer space to be carried out for the benefit and in the interest of all States, irrespective of their stage of development. When in the end of the 1950’s and in the beginning of the 1960’s States renounced any potential claims of sovereignty over outer space, indeed, they agreed to consider it as a res belonging to all mankind, whose utilization and development was to be aimed to encounter not only the needs of the few States involved in space activities but also of all countries irrespective of their degree of development. If we analyse the status of outer space 40 years after the entry into force of the Outer Space Treaty, it is possible to affirm that the non-appropriation principle has been successful in allowing the safe and orderly development of space activities. Nowadays, however, despite its merits and its undisputable contribution to the success of the system of space law, the non-appropriation principle is the object of direct and indirect attacks. On one side, there are some legal proposals arguing the need for amending or abolishing it in order to promote the commercial development of outer space4 . In these proposals the non-appropriation principle is considered to be an obstacle to the exploitation of extraterrestrial resources and an anti-economic measure preventing the free-market approach to be applied to outer space. On the other side, there is day-by-day an increasing number of websites where it is possible to buy acres of the lunar and other celestial bodies’ surface5 . The enterprises behind these questionable business, which claim to be allowed to carry on such activities by relying on an erroneous interpretation of Article II of the Outer Space Treaty, substantially operate as the non-appropriation principle was not in force. Indeed, these enterprises promise to their customers the enjoyment of full property rights over the acquired acres, thus acting in flagrant violation of the non-appropriative nature of outer space. All these practices are undermining the importance and value of the nonappropriation principle and questioning its leading role in the upcoming commercial era of outer space. Hence, the need to protect the non-appropriation principle arises. This paper aims to fulfil this purpose by proposing a new interpretation of the nonappropriation principle which is based on the idea that this principle represents a customary rule of international law holding a special character. Simply stated, this special character comes from the consideration that the nonappropriative nature of outer space and other celestial bodies is the fundamental concept on which the entire system of space law is based. If this concept is applied and properly respected, this system works; if not, this system is likely to collapse and to generate unforeseeable consequences. These factors make the non-appropriation principle a rule whose legal value and implications are unique not only in the context of space law but also in that of public international law as such. Hence, I propose an interpretation of the nonappropriation principle that appropriately expands upon its classic definition in terms of a customary rule and suggest to consider it something more than a usual customary rule but less than a jus cogens norm. Thus, having in mind the special characteristics and importance of the non-appropriation principle, the above mentioned theories proposing its abolition or its non-relevance must be rejected. ARTICLE II OF THE OUTER SPACE TREATY: A MATTER OF DEBATE The legal content of Article II of the Outer Space Treaty is one of the most debated and analysed topic in the field of space law. Indeed, several interpretations have been put forward to explain the meaning of its provisions. Article II states that: “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”. The text of Article II represents the final point of a process, formally initiated with Resolution 1721, aimed at conferring to outer space the status of res communis omnium, namely a thing open for the free exploration and use by all States without the possibility of being appropriated. By prohibiting the possibility of making territorial claims over outer space or any part thereof based on use or occupation, Article II makes clear that the customary procedures of international law allowing subjects to obtain sovereignty rights over un-owed lands, namely discovery, occupatio and effective possession, do not apply to outer space. This prohibition was considered by the drafters of the Outer Space Treaty the best guarantee for preserving outer space for peaceful activities only and for stimulating the exploration and use of the space environment in the name of all mankind. What has been the object of controversy among legal scholars is the question of whether both States and private individuals are subjected to the provisions of Article II. Indeed, while Article II forbids expressis verbis the national appropriation by claims of sovereignty, by means of use and occupation or other means of outer space, it does not make any explicit mention to its private appropriation. Relying on this consideration, some authors have argued that the private appropriation of outer space and celestial bodies is allowed. For instance, in 1968 Gorove wrote: “Thus, at present an individual acting on his own behalf or on behalf of another individual or private association or an international organisation could lawfully appropriate any parts of outer space…”6 . The same argument is used today by the enterprises selling extraterrestrial acres. They base their claim to the Moon and other celestial bodies on the consideration that Article II does not explicitly forbid private individuals and enterprises to claim, exploit or appropriate the celestial bodies for profit7 . However, it must be said, that nowadays there is a general consensus on the fact that both national appropriation and private property rights are denied under the Outer Space Treaty. Several way of reasoning have been advanced to support this view. Sters and Tennen affirm that the argument that Article II does not apply to private entities since they are not expressly mentioned fails for the reason that they do not need to be explicitly listed in Article II to be fully subject to the non-appropriation principle8 . Private entities are allowed to carry out space activities but, according to Article VI of the Outer Space Treaty, they must be authorized to conduct such activities by the appropriate State of nationality. But if the State is prohibited from engaging in certain conduct, then it lacks the authority to license its nationals or other entities subject to its jurisdiction to engage in that prohibited activity. Jenks argues that “States bear international responsibility for national activities in space; it follows that what is forbidden to a State is not permitted to a chartered company created by a State or to one of its nationals acting as a private adventurer”9 . It has been also suggested that the prohibition of national appropriation implies prohibition of private appropriation because the latter cannot exist independently from the former10. In order to exist, indeed, private property requires a superior authority to enforce it, be in the form of a State or some other recognised entity. In outer space, however, this practice of State endorsement is forbidden. Should a State recognise or protect the territorial acquisitions of any of its subjects, this would constitute a form of national appropriation in violation of Article II. Moreover, it is possible to use some historical elements to support the argument that both the acquisition of State sovereignty and the creation of private property rights are forbidden by the words of Article II. During the negotiations of the Outer Space Treaty, the Delegate of Belgium affirmed that his delegation “had taken note of the interpretation of the non-appropriation advanced by several delegations-apparently without contradiction-as covering both the establishment of sovereignty and the creation of titles to property in private law”11. The French Delegate stated that: “…there was reason to be satisfied that three basic principles were affirmed, namely: the prohibition of any claim of sovereignty or property rights in space…”12. The fact that the accessions to the Outer Space Treaty were not accompanied by reservations or interpretations of the meaning of Article II, it is an evidence of the fact that this issue was considered to be settled during the negotiation phase. Thus, summing up, we may say that prohibition of appropriation of outer space and its parts is a rule which is valid for both private and public entity. The theory that private operators are not subject to this rule represents a myth that is not supported by any valid legal argument. Moreover, it can be also added that if any subject was allowed to appropriate parts of outer space, the basic aim of the drafters of the Treaty, namely to prevent a colonial competition in outer space and to create the conditions and premises for an exploration and use of outer space carried out for the benefit of all States, would be betrayed. Therefore, the need to protect the non-appropriative nature of outer space emerges in all its relevance.

CUSTOM VS JUS COGENS: SHOULD THE NONAPPROPRIATION PRINCIPLE CONSIDERED A CUSTOMARY RULE? As anticipated, this paper is based on the idea that the non-appropriation principle is a customary rule holding a special character. In order to understand the reasons of this special status, it is necessary to clarify the legal meaning of the word custom and to explain why the interpretation of the nonappropriation principle in terms of a customary rule, and not, for instance, in terms of a rule of jus cogens, has received so large support in the legal literature. Let’s start with this last example13. According to Article 53 of the Vienna Convention on the Law of Treaties the expression jus cogens refers to a peremptory norm that is “accepted and recognised by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”. The primary purpose of a jus cogens rule is to protect values and principles constituting the basis of the modern system of international law. Because of their fundamental role, the rules of jus cogens have a higher rank than ordinary rules deriving from treaty or custom. Hence, they do not permit derogation and once a State breaches their provisions, it becomes responsible towards the whole international community. Classic examples of jus cogens rules are: the prohibition of aggression, slavery, genocide and apartheid. Despite playing a fundamental role within the system of space law and despite being aimed to protect the interests of all mankind in relation to the utilization of outer space, the non-appropriation principle does not have the requisites and importance to be considered a jus cogens rule. Therefore, a hypothetic interpretation of the non-appropriation principle in terms of a peremptory norm should be refused. On the contrary, the nonappropriation principle shows the characteristics required to be classified as a customary rule. In accordance with Article 38.1 (b) of the Statute of the International Court of Justice international custom is defined as “evidence of a general practice accepted as law”. This definition reflects the widely accepted view that custom consists of two elements: general practice, or usus, and the conviction that such practice reflects, or amounts to, law (opinio juris). As for the practice, its features have been indicated by the ICJ in the North Sea Continental Shelf cases, where the Court stated that “State practice, including that of States whose interests are specially affected should…(be) both extensive and uniform”14. These elements were considered indispensable for the formation of a customary rule. Moreover, in the Nicaragua v. United States, the Court added that it was not necessary that the practice in question had to be “in absolute rigorous conformity” with the customary rule but that “the conduct of States should, in general, be consistent with such rule, and that instances of State conduct inconsistent with a given rule should generally have been treated as breaches of that rule, not as indications of the recognition of a new rule”15. Usually, a practice emerges among certain States under the impulse of economic and political demands. If such practice does not encounter strong and consistent opposition from other States but is increasingly accepted, a customary rule comes into being. At this latter stage, it may be said that this practice becomes dictated by international law. In other words, now States start to believe that they must conform to the practice because an international rule obliges them to do so. Therefore, an opinio juris is formed. Thus, in order to support the view which considers the non-appropriation principle a customary rule, it is necessary to prove the existence of a States’ practice and opinio juris confirming this theory. The analysis of the practice before the conclusion of the 1967 Outer Space Treaty shows that the prohibition of the extension of State sovereignty to outer space was one of the first principles on which States agreed upon. Since the beginning of the space era, indeed, the US and the Soviet Union, the only two superpowers able to carry out space activities at that time, decided to consider outer space as non-appropriable and their behaviours confirmed such interpretation. Indeed, when space activities began, no territorial claims were put forward. The first incorporation of the nonappropriation principle into a legal document was made by means of UNGA Resolution 1721 (XVI) of 20 December 1961 which declared “Outer space and celestial bodies…are not subject to national appropriation”. Two years later Resolution 1962 (XVIII) of 13 December 1963 stated that “Outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means”. The formulation and content of these two Resolution was largely influenced by the willing of the two superpowers. Nonetheless, both Resolutions encountered the full support of the rest of the members of the United Nations and were adopted unanimously. This fact was the evidence of the existence of an opinio juris among the UN members confirming that the principles contained in the Resolution, and in particular the non-appropriation one, were accepted by the community of States. As affirmed by the Canadian Delegate in 1963, “the legal principles contained in the draft resolution…reflected international law as it was currently accepted by Member States”16. The US Delegate supported this view by declaring: “We believe these legal principles reflect international law as it is accepted by the Member of the United Nations”17. The above mentioned text of Resolution 1962 was restated and spelled out in Article II of the Outer Space Treaty. From a legal point of view, the Treaty transformed the nonappropriation principle into a binding legal obligation. Indeed, the legal effect of a principle set out in a treaty or convention ratified by Governments is not comparable to that of a principle laid down in a Resolution by the General Assembly. However, in my opinion, Article II simply reaffirmed a principle that was already part of general law and, as a consequence, already valid erga omnes and binding upon all States, being or not active in space operations. Article II, indeed, was declaratory of a formerly set out rule of customary law. SPECIAL NATURE OF THE NONAPPROPRIATION PRINCIPLE: CHARACTERISTICS OF A STRUCTURAL RULE OF INTERNATIONAL LAW The interpretation of the non-appropriation principle in terms of a rule of customary law has received a broad support in the legal literature. I fully agree with such interpretation. However, I suggest to goes further this classic interpretation and to give the non-appropriation principle a special character. Having in mind the fundamental role that the non-appropriation principle plays in the proper functioning of space activities and the numerous examples deriving from States practice which attest its importance, I think that the non-appropriation principle should be considered a rule holding a legal effect which is superior to that of a classic customary norm. In short words, along with the typical characteristics belonging to a customary rule, the non-appropriation principle incorporates some other elements which provides it with a peculiar status and that allow this author to collocate the nonappropriation principle in a intermediate position between a customary and a jus cogens rule. Using as a starting point the words of the ICJ, which in the North Sea Continental Shelf Case, affirmed the existence of a particular category of provisions of “a fundamentally norm-creating character…”18, I propose to classify the non-appropriation principle as a “structural” norm. The adjective structural refers to the fact that this principle represents the essence of the space law system. In my opinion, in order to identify a principle as a “structural” norm, such principle needs to hold the following characteristics: 1) It must represent the basis of the legal framework regulating a field of international law, i.e., it must constitute the fundamental pillar on which such framework is built on. 2) Its presence ensures that the other principles constituting such legal framework can operate and fulfil the purpose for which they are set out. Thus, we may say that without this structural principle the other rules of the above mentioned legal system lose their significance. 3) There must be a historical and present evidence of the special status of the norm in question. 4) If the structural norm is abolished, the legal system of which such norm constitutes the basis will collapse. 5) Its violation generates a special regime of responsibility for the State involved. Let’s see now if the non-appropriation principle incorporates these features. 1) The non-appropriation principle: the basis of space law The non-appropriative nature of outer space is the basic concept of space law. Since the first satellite was launched States agreed to renounce to any sovereignty claim on outer space and to consider outer space as nonappropriable. The upcoming space era was seen as an unrepeatable opportunity for all mankind and as a possible instrument to improve the quality of live of all people on Earth. The non-appropriation principle represented the best guarantee that this “humanitarian” and idealistic approach to the management of the space environment was put in practice. Its presence, indeed, was a manifest promise that States were willing to base space activities on a cooperative basis and to carry out the exploration and use of outer space for the benefit of all. 2) Predominance of the non-appropriation principle over the other space law rules The non-appropriation principle constitutes the premise for the putting into practice and realization of the other principles set out in the Outer Space Treaty. First of all, the freedom of exploration and use by all States of outer space (Article I, par. 2 of the Outer Space Treaty) may exist only in the presence of the non-appropriation principle. If each State was allowed to acquire territorial rights over parts of outer space, the freedom to accede to and use outer space would be reduced or completely abolished. The nonappropriation principle, indeed, is to be considered the crucial component of the res communis idea. Secondly, if national appropriation in space was allowed, the preservation of outer space for peaceful purposes only would cease to exist (Article III of the Outer Space Treaty). As analysed, the non-appropriative nature of outer space has prevented to transport terrestrial conflicts and rivalries into outer space so far. Moreover, if States were free to “nationalize” parts of outer space I seriously doubt that the principle of cooperation and mutual assistance (Article IX of the Outer Space Treaty) would keep guiding the activities of States in outer space. 3) Evidences of the structural status of the non-appropriation principle It is possible to enumerate numerous examples which support and confirm the structural status of the non-appropriation principle. These examples come both form the past, namely from the process leading to the setting up of space law, and from the current practice of States and private operators in space. Therefore, I have classified such evidences as either historical or modern. 3.1) Historical evidences The res communis omnium nature of outer space found support in legal theory and in official declarations since the beginning of the space era. Already in 1947, D. Manuilsky, UN Delegate of the USSR, proposed to submit a resolution to the UN with the purpose to declare outer space “an international entity”19. Such proposal did not find any echo. However, in the literature of the pre and post satellite era there was a generally accepted view that outer space could not be subject to national appropriation. For instance Prof. Jenks in 1965 stated “Space beyond the atmosphere is and must always be a res extra commercium incapable of appropriation by the protection into such space of any particular sovereignty based on a fraction of the earth’s surface”20, while M.S. Smirnoff in 1959 declared that “The right of occupation and discovery does not exist in space which is considered as res communis”21. The principle that outer space was non-appropriable was also affirmed in the 1960 Resolution of the International Law Association declaring “outer space may not be subject to the sovereignty or other exclusive rights of any State”22 and in the 1962 Draft Code of the David Davies Memorial Institute laying down: “Outer space , and the celestial bodies, therein, are recognized as being res communis omnium,…and neither outer space nor celestial bodies in it are capable of appropriation or exclusive use by any State”23. As to the official declarations, already in 1958 Senator Johnson addressed the United Nations by declaring that: “We of the United States have recognized and recognize, as most all men, that the penetration into outer space is the concern of all mankind. If nations proceed unilaterally, then their penetration into space becomes only extension of their policies on earth. Today outer space is free. It is unscarred by conflict. No nation holds a concession there. It must remain that way”. On 14 September 1959, the Soviet space device Lunik-2 crashed on the surface of the Moon by carrying metal emblems bearing the coat of arms of the Soviet Union and the Soviet Republics. Immediately after the Lunik’s reaching the Moon, the soviet academics L.I. Sedov and A.V. Topchiyev declared that the coat of arm did not symbolize any territorial claim24. This interpretation was confirmed by Premier Khruschev during his staying in the US. He stated: “The Soviet pennant as an old resident, will then welcome your pennant and they will live together in peace and friendship and as well as people should live who inhabit our common mother the earth…We regard the sending of the rocket into outer space and the deliverance of our pennant to the Moon as our achievement, and by this word ‘our’ we mean the countries the countries of the entire world, i.e. we mean that this is also your achievement and the accomplishment of all the people living on the earth”25. From the United States side, we can quote the significant declaration of President Eisenhower which on September 22, 1960, addressed the United Nations General Assembly by indicating some basic concepts that in his opinion had to constitute the basis for international space cooperation. Among those there were the following principles: “We agree that celestial bodies are not subject to national appropriation by any claims of sovereignty”26. Later, as we have seen, the non-appropriation principle was incorporate in UNGA Resolution 1721 and 1962. In June, 1966, both the United States and the Soviet Union submitted to the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) drafts of an instrument that would become the Outer Space Treaty. These drafts were based on the nonappropriative nature of outer space. In 1967, the non-appropriation principle of outer space was formally laid down in Article II of the Outer Space Treaty. Nine years after the signature of the Outer Space Treaty, an international case took place confirming the importance and the general acceptance of the non-appropriative nature of outer space. In 1976, eight equatorial States which were not parties to the Outer Space Treaty, claimed, by means of the Bogotà Declaration, sovereignty rights on the part of the geostationary orbit above their territory27. These States affirmed their non-acceptance of the principles of the Treaty, especially regarding the principle of non-appropriation. Their claim was rejected by the overwhelming majority of States on the ground that the non-appropriative nature of outer space was a rule binding all States independently by their participation to the Treaty. 3.2 Modern evidences As indicated in the beginning of this paper, there is an increasing number of legal authors who consider the non-appropriation principle the major obstacle to the commercial development of outer space. With particular regard to the possibility to use and exploit extraterrestrial mineral resources, these authors affirm that the current space law regime, which prohibits the creation of property rights in outer space, fails to guarantee predictability for space entrepreneurs and to protect the rewards of their efforts. Therefore, private operators are discouraged to undertake missions to exploit such resources. In order to make these exploitative activities possible these authors propose the following theories: 1) To amend or simply to remove Article II of the Outer Space Treaty and to replace it with a clause allowing for the creation of titles of property rights in outer space28; 2) To extend the existing terrestrial regime of property rights in outer space. As a consequence, all individuals would be entitled to use, exclude and dispose of outer space and its resources29; 3) The United States should ignore the 1967 non-sovereignty provision and start to appropriate parts of outer space30; 4) The United States should recognise the claim of those who discover valuable mineral resources31. According to this theory the recognition of these claims would not constitute national appropriation, but rather the exercise of the US jurisdiction over its citizens. All these theories must be rejected because they lack a solid legal basis and because none of these proposals is able to prove that a system allowing the creation of property rights, would guarantee the orderly and coordinated development of space exploitative activities. The important consideration for this paper is that, in my opinion, all these attacks on the non-appropriation principle symbolize a confirmation of the special status of such principle within the context of space law. The more such authors attack the nonappropriation principle, the more its importance and the need for keeping it as the basis of space activities emerge. The fact that this authors only focus on this principle and not on the others, such as the one establishing that the exploration and use of outer space shall be carried out for the benefit and in the interests of all mankind, is an indication that it is the essence of the space law system. Apart from these theories, the other major threat to the non-appropriation principle comes from companies which sell lunar and other celestial bodies’ acres. Among these companies one of the most popular is Lunar Embassy. Lunar Embassy has established the practice of setting out twin companies and to nominate ambassadors from around the world. Recently a juridical controversy has emerged involving the so-called Lunar Embassy in China. The legal consequences of this controversy are particularly relevant for the purpose of this paper. In October 2005 Beijing industrial and commercial authorities suspended the license of Lunar Embassy in China for having engaged in speculation and profiteering and fined it 50,000 yuan. Lunar Embassy in China sued the Beijing Administration32. The Haidian District People’s Court ruled against the company in November 2005. Then, the company decided to appeal against the Court’s decision33. In March 2007 the Beijing First Intermediate People’s Court ruled against the company, stating that no individual or State could claim ownership of the Moon34. In its pronunciation the Court cited the fact that China was part of the Outer Space Treaty, which prohibits appropriation of outer space and its parts, since 1983.

The ruling of the Chinese Court represents a very significant confirmation of the nonappropriative nature of outer space after forty years of its entry into force. It is a clear-cut indication of the fact that the nonappropriation principle holds a special status. Individuals are not allowed to act in contrast to it because its presence is vital for the safe management of outer space. If violation to the non-appropriation principle were allowed, the consequences for the whole space law system would be catastrophic. Another important re-affirmation of the importance of the non-appropriation principle has been made in 2004 by the Board of Directors of the IISL by means of the “Statement of the Board of Directors of the International Institute of Space Law on Claims to Property Rights Regarding the Moon and Other Celestial Bodies35. The Statements reads: “The prohibition of national appropriation…precludes the application of any legislation on a territorial basis to validate a private claim. Hence, it is not sufficient for sellers of lunar deeds to point to national law, or the silence of national authorities, to justify their claims…”. The Statements also calls the States Parties to the Outer Space Treaty to: “comply with their obligation under Articles II and VI of the Outer Space Treaty…under a duty to ensure that, in their legal systems, transactions regarding claims to property rights to the Moon and other celestial bodies or parts thereof, have no legal significance or recognised legal effect”. The Statement on one side rejects those theories supporting the national registration of private claims to the Moon and other celestial bodies and on the other restates the special obligation relying on States to respect and to ensure the respect of the non-appropriative nature of outer space. 4) The abrogation of the non-appropriation principle will generate the collapse of the system of space law If the non-appropriation principle was removed, it is very likely that the system of space law as we have know it so far would cease to exist. In a future space scenario without the presence of the non-appropriation principle, conflicting claims among States would arise. This situation would engender international tension and increase the risk for armed conflict in outer space. Moreover, as soon as a State was able to gain control over an area of a celestial body, there would be nothing to prevent such a State to impose taxes and royalties for the acquisition of rights by private operators to use such area and its resources. As indicated by Sters and Tennen, in a similar scenario the costs for utilizing space resources and for carrying out exploitative missions would increase36. Therefore, the abrogation of the nonappropriation principle would prevent instead of favour, as it is suggested by some, the commercial development of outer space. Additionally, if States were allowed to acquire sovereignty rights over parts of outer space, obviously they would pursue their own purposes and interests. Thus, the idea that the exploration and use of outer space is the “province of all mankind” would lose its relevance. 5) Special responsibility and consequences for the violation of the non-appropriation principle As we have just seen, if the non-appropriation principle was removed, the risk for an armed conflict in outer space would be high. Therefore, States have a special duty to act in conformity with such principle. But what if a State should suddenly decide to violate such principle and to appropriate one part of outer space? What would be the legal consequences of such behaviour? Considering the fact that Article III of the OST makes international law, including the Charter of the United Nations, applicable to the exploration and use of outer space and having in mind that Article I (1) of the UN Charter lays down the obligation to maintain peace and security, and to prevent or remove threats to peace, the individual violation by a State of the principle contained in Article II of the OST should be considered a threat to international peace. Such a State should be seen as responsible for an act of particular gravity towards the whole community of States. Therefore, in a similar situation the other States would be entitled to act collectively through the United Nations to stop such behaviour and to remove this threat to peace. A joint effort and pressure in that direction should be likely to restore the status quo ante. The argument could be put forward that if a State should decide to withdraw from the Outer Space Treaty, it would be no longer bound by the provisions of Article II and thus it could appropriate parts of outer space. This argument should be rejected on the basis that even after that withdrawal, such a State would be obliged to respect the non-appropriation principle in consideration of its structural and special status. CONCLUSION The non-appropriation principle represents the basic principle of space law. Considering its importance and its role in providing the conditions for the peaceful and orderly management and development of space activities, this paper has put forward the hypothesis of considering that principle a structural rule of international law. As it has been shown, there exist several historical and modern examples which confirm the peculiar status of the principle contained in Article II of the Outer Space Treaty. Having in mind the special characteristics of the non-appropriation principle, the theories proposing its abrogation or suggesting unilateral State actions against it are unacceptable. If these theories were put into practice, the use of outer space would evolve into a situation of chaos and, moreover, its commercial development would be hindered instead of favoured. Any hypothetical amendment of the nonappropriation principle should be carried out by all States acting collectively. This would be the only option to prevent the risk of war in outer space and to allow the harmonized management of space activities in the era of space commercialisation.

#### Western militarization of space *consolidates* an extra-terrestrial system of rule designed to increase coercion of non-Western powers and strengthen neoliberal exploitation of the space environment.

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(\*Dr. Raymond Duvall, Professor of Political Science, University of Minnesota, Distinguished Scholar Award, from the International Theory Section of the International Studies Association, \*Dr. Jonathan Havercroft is Associate Professor in International Political Theory within Politics & International Relations at the University of Southampton, “Taking sovereignty out of this world: space weapons and empire of the future”, *Review of International Studies* (2008), 34, 755-775 Copyright© British International Studies Association dot 10. 101 7IS02602 10508008267, Ak.)

Space weapons, sovereignty, and the constitution of empire Our argument, in simple terms, is that the **unilateral militarisation of space reconstitutes and alters the social production of political society** globally in three interlocked ways that are rooted respectively in the three forms of deploying technologies/cartographies of violence in orbital space identified in the previous section: **missile defence; space control; and force application**. The conjoint effect of those three technologically induced processes of reconstitution33 is to **substitute the consolidation of an extra-territorial system of rule** - which we refer to as **empire of the future** - **for the competitive sovereignties of** the **modern states**-system. Missile defence The first weapons in **space** will probably be **deployed** for **missile defence**. The US military is testing several prototypes of components of such a system, one of which, the MDA Space Test Bed, is being funded as 2008, with the aim of integrating already existing space technologies into a system that, from orbital space, can intercept ballistic missiles in their boost phase.34 Such a system, when/if highly effective, **replaces mutual deterrence with the singular US capability** (perhaps extended to allies) **to launch unilateral pre-emptive and preventative attacks freed from concerns of retaliation** through ballistic missile counter-attacks. The missile defence system now envisioned by the US thus undermines the logic of mutual deterrence. **States not included under its umbrella become** increasingly **vulnerable to** (even **nuclear**) **attack** **by the state that controls it**.35 The **sovereignty of a state is conceptually and practically linked to its ability to maintain territorial integrity by deterring enemies from attacking**. **During the Cold War**, the deterrent effect of **nuclear weapons** was acknowledged as a primary means by which 'great power' states in conflict **protected** their **territorial integrity**, **and**, in turn, their **sovereignty**.36 Kenneth Waltz argued that the proliferation of nuclear weapons would extend deterrent effects to otherwise not-yet 'great powers', thereby strengthening the security of larger numbers of sovereign states and stabilising the international system.37 Following the logic of Herz's nuclear 'one-worldism', an **effective missile defence** system, by contrast, **will strip states of** **whatever** **'hard shell' of territorial defensibility that had been** or might be **provided by mutual deterrence** of missile attacks. The realist argument that has largely carried the day for the past half century in critical response to Herz (that the deterrent effect of mutual assured destruction of two states possessing nuclear weapons reinscribes territorial state sovereignty) accordingly is brought into doubt. If the **US** were to develop a sufficiently sophisticated **missile defence** shield, the **deterritorialising effect on the sovereignty of all other states** would be precisely those that Herz forecasted - their 'hard shell' of defensibility would be lost. There would be a significant twist, however, because, **for the US**, control of an effective **missile defence** system **would** markedly **reinscribe** its territorial 'hard shell' and **its sovereignty** in exclusively shielding it from the threat of (missile-based) attack by others. **The sovereignty of one state is reinscribed**, **while** that of **other states**, most notably 'great powers' that have depended thus far on their **deterrent capacities, is eroded**. Space control The doctrine of space control has emerged out of the belief that assets in space represent a potential target for enemies of the US.38 There are two kinds of vulnerable US assets: private-commercial; and military. One **concern** is that **rivals** may **attack commercial satellites**, thereby disrupting the flow of information and **inflicting significant harm on global markets**.39 Militarily, the concern is that, through **increasing reliance on satellites** for Earth-based military operations, **the US has created an 'asymmetrical vulnerability'**. **An adversary** (**including** **a** non-state, **'terrorist' organisation**) **could** effectively **stop** ~~immobilise~~ **US forces by destroying** ~~disabling~~ the **satellites that provide communication, command, and control** capabilities. Consequently, the project of **space control is designed to** protect commercial and military satellites from potential attacks. Its broader purpose, however, is to **prevent** **rivals** **from having any access to space for activities antithetical to US interests**; this is the imperative for **'denial of** the use of **space to adversaries'**. Thus **space control has dual functions** - it **is** both a **privatising** of **the commons of orbital space and a military exclusion** - in a form of 'inclusive exclusion'.40 **Space control represents the extension of US sovereignty into orbital space**. Its **implementation** **would** reinforce the constitutive effect identified in the previous section on missile defence, namely to **reinscribe** **the 'hard shell' border of the US, now extended to include the 'territory' of orbital space**. **US sovereignty is projected out of this world and into orbit**. Under Article II of the 1967 Outer Space Treaty, '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'. **The US project of space control** would entail a clear violation of this article.41 In addition to expanding the scope of US sovereignty, however, this **violation of international law** has a second constitutive effect of importance, namely **to produce** a **distinctly capitalist sovereignty**. In Volume One of Capital, Marx chided classical political economists for their inability to explain how workers became separated from the means of production. Whereas political economists such as Adam Smith argued that a previous accumulation of capital was necessary for a division of labour, Marx argued that this doctrine was absurd. Division of labour existed in pre-capitalist societies where workers were not alienated from their labour. Instead, Marx argued that the actual historical process of primitive accumulation of capital was carried out through colonial relations of appropriation by force.42 While not a perfect analogy, **because of the lack of material labour**, the value of which is to be **forcibly appropriated in orbital space**, **space control is** like such **primitive accumulation in constituting** **a global capitalist order through** the **colonisation of space as previously common property**. One of the purposes of the 1967 Outer Space Treaty was to preserve a commons where all states, regardless of technical ability or economic or military power, could participate in the potential benefits space has to offer. In the years since this treaty was signed, the **primary economic use of space** has been **for commercial communications satellites**. This industry has expanded dramatically in the last two decades. Total revenues for commercial space-related industries in 1980 were $2.1 bn; by 2003 this figure had expanded to $91 bn and it was expected to increase at least as rapidly into the foreseeable future.43 **Space control is about determining who has access to this new economy**. **Positions in orbit for satellites are a new form of 'real estate'**. By controlling access to orbital space **the US would be forcibly appropriating the orbits**, in effect **turning them into primitively accumulated private property**.44 In this way, **the US becomes** even more than it is now the sovereign state for global capitalism, **the global capitalist state**. Force application from orbital space **Force application entails using weapons** either based **in space** or **deployed** **through space** **to attack targets** **on Earth** or within Earth's atmosphere. Such weapons systems (other than missiles) are many years off, but substantial research is being conducted, and military strategists are already discussing how they might be used.45

#### Weaponization of space is a unique threat which is worse than conventional militarism because it destroys sovereign relations by breaking down deterrence, MAD, institutional coherence, and resistance movements

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(\*Dr. Raymond Duvall, Professor of Political Science, University of Minnesota, Distinguished Scholar Award, from the International Theory Section of the International Studies Association, \*Dr. Jonathan Havercroft is Associate Professor in International Political Theory within Politics & International Relations at the University of Southampton, “Taking sovereignty out of this world: space weapons and empire of the future”, *Review of International Studies* (2008), 34, 755-775 Copyright© British International Studies Association dot 10. 101 7IS02602 10508008267, Ak.)

The major advantage of **space**-based **weapons** is that they **can be deployed to attack extremely quickly**. Additionally, **it is very difficult to defend against them**. They become the **violent parallel to the surveillance panopticon**. In order to investigate the constitutive effects of force application from outer space, we need to look at two aspects of these weapons: technical (what they can do); and tactical (how they would be used).46 Technically, the two types of force application weapons systems currently envisioned, laser-energy and kinetic-energy, have different features. **Laser weapons would take only seconds to deploy**, and **they could reach any target on** or near **Earth instantaneously and very precisely**. They are not very destructive, however, and as such would not be very useful against large-scale and/or heavily shielded targets. **Kinetic**-energy **weapons**, in contrast, **have the potential to deliver very destructive force**, even well below the Earth's surface (in deep bunker-busting). They would take a few hours to deploy, however.47 While they could also be designed to attack any point on earth, they are only useful against fixed targets, because of deployment lag-time. In addition to laser and kinetic-energy systems, **conventional weapons**, such as **bombs and missiles**, **might** also **be placed in space**. They would occupy a middle ground. It would take approximately ten minutes to launch them and they could attack any targets that have relatively fixed locations.48 The tactical advantages are obvious. Their **tremendous range would enable space-based weapons to reach targets** that **other weapons cannot**, and because they are **based in orbital space** there are no concerns about violating the airspace of other states in transit, as there is with airplanes or non-ballistic missiles. They could also be **used on very short notice, in contrast to the days to weeks typically required to deploy Earth-based weapons**, such **as airplanes, ships, or troops**. Their major drawback is cost, both for development and for placing in orbit.49 As such, they would likely have limited use,50 particularly if other weapons and tactics can accomplish the same mission for lower cost. Why, for instance, would the military use a kinetic-energy weapon orbiting in space against a target when a similar result could be produced by a cruise missile or a bomb? Thus, to repeat, **the prime advantage of these weapons** is their **ability to be used very quickly against targets** that are **out of the reach of other weapons**. In what kind of military operations, then, would space-based weapons for force application be useful? Military analysts have speculated on just such questions: Alternatively, **a space weapon might be the weapon of choice** for an otherwise lower-value target **if the space weapon were the only choice available in time**, particularly for a time critical political effect. For example, a locomotive might not be worth a space-delivered smart munition. However, it might be well worth the use of a **space**-delivered smart **munition to target a locomotive** **pulling a train full of people forced from their homes for transport** **to the border** **or** to **a concentration camp** **at the beginning of an ethnic cleansing campaign** - particularly if aircraft and helicopters cannot reach the train because air defenses have not been suppressed, basing and overflight rights have not been granted, or coalition consensus on the action has not been reached.51 This scenario is fascinating for the political logic at work within it - **force application from space is required to attack an otherwise inaccessible target**. All three reasons stated for inaccessibility involve **potential gaps in US capacity to project its power globally**. **Either the defences of the target country have not been suppressed**, **or other states have not consented to let US forces fly through their airspace**, **or** other **coalition members** - presumably in NATO or the UN - **have not consented to the action**. What places targets **'out of reach'** in this scenario, then, is **the sovereignty of other states** as **exercised through their abilities to defend their territory**, **control** their **airspace**, **and**/or **participate** (jointly) **in authorised** decision of the (global) **exception to international law**. As Schmitt has argued with respect to domestic law, **the sovereign is constituted through the capacity to decide the exception to the application of law in a moment of crisis**.52 The effect of **space weapons** for force application is to **erase that sovereignty** - **states are constituted as subjects lacking authorisation of decision, and lacking a boundary** effectively **demarcating inside from outside**. **While** **other** **weapons systems** **can** **be** **used to intervene in affairs within a state's borders**, their **constitutive logic** (with the possible exception of nuclear and some forms of biological weapons) **is not**, per se9 **corrosive of sovereignty**, **because in principle**, even if not in every instance, **they can be defended against**. **Precision space-based strikes happen so rapidly**, however, **that a defensive response is not possible**. As such **they strip states of the defensive 'hard shell' that**, classical realists argued, **is constitutive of sovereignty**. All three justifications thus **buttress the exclusive capacity of the US to 'decide the exception' globally**, **while diminishing, by circumvention**, the **sovereignty of other states**. The **hypothetical use of space weapons** in this scenario **is an imperial project**.53 Furthermore, these weapons would be **most useful against small targets, such as groups and individuals**. While the justification for the **use of space-based weapons** in the quoted scenario was to prevent genocide, the hypothetical attack **constitutes their possessor as global police**, **punishing without trial** those specific actors it deems responsible for genocide. Even if the specific act provoking space-based attack is not a violation of international law, the political society with the capacity to intervene - and with it the capacity to decide when to intervene - constitutes itself as sovereign police of the international system.54 **Space-based weapons** for force application, then, **are most useful at targeting individuals and groups at short notice** in order **to achieve** the **policing** objective of **'order' and control under a rule of law**, even as that sovereign policing decision is made outside of the very law in whose name it is made. We have already seen glimpses of this type of warfare in recent years. Consider, for example, that **the Iraq War began with a** so called **'decapitation strike'** **aimed at assassinating Saddam** Hussein in the hope of ending the war before it began. **Similar tactics have been used by the Israeli Defence Forces to kill** specific leaders of the **Palestinians**. Also, the US has used Unmanned Aerial Vehicles equipped with missiles to target members of Al Qaeda and the Taliban in Afghanistan and Pakistan. **Placing weapons in space aimed at terrestrial targets would markedly accelerate the ability to carry out** these types of **'targeted killings'** (**assassinations**). Thus, **application of force from orbital space** would have at least three crucially important constitutive effects. First, it would constitute the US, as possessor of these weapons, as the centre of a globally extensive, late-modern empire,55 a sovereign of the globe. But **this sovereign would exercise its power in a new way**. Rather than needing to have occupying forces in place to control the Earth's lands and seas, **it could rely heavily on space weapons to exercise social-political control**. While these weapons are not particularly useful in fighting large-scale wars, or in the conquest of territory, **there would no longer be a need to hold territory**. **All the global sovereign would have to do is to kill, or** perhaps even **threaten** to kill, potential adversaries around the world in order **to 'police' social and political activities** throughout its global empire.56 Second, **these weapons**, just as space-based missile defence, **would** effectively **strip other states of their territorial sovereignty**. While de jure sovereignty may remain intact, **de facto sovereignty would be** effectively **erased**, in a manner **reminiscent of classical empire**. For decades, realist international relations scholars have promoted the idea that states secure their sovereignty through self-help.57 **If states lack the capacity to defend themselves from adversaries, they are particularly vulnerable to attack and conquest**. While liberal and constructivist scholars have questioned how closely sovereignty is linked to military capability, realists have responded that throughout history states with disproportionate military power have repeatedly violated the sovereignty of weaker states.58 While **space-based weapons** in and of themselves would not enable conquest of another state, they **could be used very effectively to achieve precise political objectives on the territories nominally under the sovereign authority of other states**. Imagine what impact these weapons would have on US foreign policy with respect to two of its currently most pressing objectives. Consider, for one, how useful such weapons might be with respect to preventing a rival state, such as Iran or North Korea, from acquiring nuclear weapons. While there has been speculation that the US or Israel may launch **air strikes** against potential nuclear weapons manufacturing facilities in these countries, the logistics - **getting access to airspace from neighbouring countries, and the possibility of retaliation** against military forces in the area - **make such operations difficult**. **Using weapons in space would avoid these logistical difficulties**, thereby **making** the **missions easier** (**and** presumably **more likely**). Threatening spaced-based attack on either manufacturing sites of weapons or on the political leadership of an adversary might be sufficient in many cases to alter the behaviour of targeted governments. In short, if the **US** were to deploy such **weapons in space**, they **would** likely **be used** to similar effect **as** the **gunboat diplomacy** of the 19th century A second contemporary policy objective is to fight specific non-state actors. The 9/11 Commission Report discussed in great detail the logistical obstacles that prevented the Clinton administration from capturing or killing Osama Bin Laden,59 principally the difficulty in either launching cruise missiles into Afghanistan through another state's airspace or deploying US Special Forces in an area remote from US military bases. Had the US possessed space-based weapons at the time, they probably would have been the weapons of choice. When combined with intelligence about the location of a potential target, they could be used to kill that target on very short notice without logistical hurdles. The sovereignty of states would no longer be an obstacle to killing enemies. All that would stand in the way would be international norms against assassination and the potential political backlash of imperial subjects. While much has been made by constructivists in recent years of the **capacity of norms and taboos to restrain state behaviour** in a world of sovereign states, it does **not** necessarily follow that in a world of only one effectively global sovereign such taboos and norms would continue to function or even **exist**. The example of using space weapons to target non-state actors such as Osama Bin Laden and Al Qaeda points to a third constitutive effect of space weapons capable of force application. Because **these weapons could target anyone, anywhere, at anytime**, **everyone on Earth is** effectively **reduced to 'bare life.'**60 As Agamben demonstrates, **sovereign power determines who is outside the laws and protections of the state in a relationship of 'inclusive exclusion.'** While human rights regimes and the rule of law may exist under a late-modern global empire policed by space weapons,61 **the global sovereign will have the ability to decide the exception to** this **rule of law**, and this **state of exception** in many cases may be **exercised by** the use of **space weapons** that **constituted the sovereign in the first place**.

### 1AC – Plan (1:30)

#### Plan - Private entities and space-faring governments will ban the appropriation of outer space by private entities.

#### Enforcement is using anti-satellite weapons against presently privately appropriated space materials to repossess the space after all personnel have been returned. This makes sure any past appropriation goes away as per the ban

#### The role of the ballot is to vote for the debater whose advocacy best reveals and breaks down militarism in outer space.

#### The plan *accelerates* the collapse of the US satellite network by *locking in* Kessler Syndrome. *Increasing* ASAT attacks against Satellites both demilitarizes space and creates enough space debris to make spacecraft operation impossible.

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(\*Dave Dunlop is a long time member of the National Space Society (NSS), has worked in educational outreach for Michigan Technological University, and first developed the Rockets for Schools Program in Wisconsin with the Wisconsin Space Business Roundtable and subsequently in Michigan. He has an MA Degree in Science Education from the University of Illinois and has held professional positions in Mental Health Administration and Education during his career. He has served on the Board of Directors of the NSS and is currently Chair of the NSS International Committee. He also frequently participates in program planning for the Lunar Track at the annual International Space Development Conference., \*\*Al Anzaldua is a retired US State Department diplomat and 30-year veteran of space advocacy. His undergraduate educational background is in Science and International Studies, followed by a Master’s degree in Latin American Studies. In the US Foreign Service, he carried out diplomatic and science-related work, primarily in Latin American and Caribbean countries. Al is the National Space Society (NSS) International Chapters Coordinator, Vice-Chair and International Relations Coordinator of the NSS International Committee, Secretary of the Tucson L5 Space Society, and active with other space or astronomy organizations. He has authored a series of articles on space issues in The Space Review and other publications and gives frequent presentations and exhibitions on space-related subjects, “Why the US and Russia should work together to clean up orbital debris”, <http://www.thespacereview.com/article/3156/1>, January 30, 2017, Ak.)

**There are over 22,000 Earth-orbiting debris objects larger than a softball** (10 centimeters) **and** around **a million shrapnel fragments** between 0.5 and 10 centimeters (ESA 2013). **With relative impact velocities** reaching **higher than 55,000 kilometers per hour in** low Earth orbit (**LEO**—between 160 and 2,000 kilometers in altitude—even **debris as small as a pea can take out spacecraft** (Liou 2014). **The deliberate destruction in 2007 of the Chinese** Fengyun **satellite with an antisatellite weapon** **and the catastrophic 2009 collision** **between** a **defunct Russian Cosmos satellite** and an operating Iridium satellite **have** together more than **doubled the number of cataloged debris fragments** (National Academy 2011). NASA, analyzing data from six space agencies, estimates that **if nothing is done** about the growing quantity of debris and increasing number of satellites in Earth orbit, **there will be a**nother **catastrophic collision every five** to nine **years** and the pace will accelerate (Liou 2014). At least some who have been studying orbital debris for many years believe that we may have already reached **a** “**tipping point**” **where**by orbital **debris in** congested **LEO** altitude bands **is colliding in a runaway** debris-generating **cascade**, often called the **Kessler syndrome**. Although this assertion is controversial, and a debris cascade **would take years to** **unfold**, at some point a Kessler cascade would nevertheless **make spacecraft operation in affected altitude** bands virtually **impossible** (McKnight 2012). Orbital debris is an ever-growing hazard to the International Space Station (NASA 2015) and the approximately 1,300 operating satellites, which represent only six percent of the 22,000 tracked objects in orbit (Baiocchi 2015). Although about 70 countries operate satellite, **the US, China, and Russia** **have the three largest fleets** (Aerospace 2015) **and** thus **have the most at risk**.

#### The plan resists state power by destroying imperial technologies. A counter-hegemonic strategy that destroys space weapon systems through ASAT and kinetic attacks allows insurgency against the worst state violence.

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(\*Dr. Raymond Duvall, Professor of Political Science, University of Minnesota, Distinguished Scholar Award, from the International Theory Section of the International Studies Association, \*Dr. Jonathan Havercroft is Associate Professor in International Political Theory within Politics & International Relations at the University of Southampton, “Taking sovereignty out of this world: space weapons and empire of the future”,  *Review of International Studies* (2008), 34, 755-775 Copyright© British International Studies Association dot 10. 101 7IS02602 10508008267, Ak.)

Imagining resistance Give1n these grim prospects for a deterritorialised global rule,69 **what are the possibilities for resistance?** Historically, **every advance in the weaponry of imperial powers has been met with an advance in counter-hegemonic strategy**. Most recently, **insurgents in Afghanistan and Iraq** **have been able to counter** the **tech-nological superiority of US forces with** very **simple yet effective Improvised Explosive Devices**. In these instances, **those subjugated by the tech-nologies and scientific knowledge linked to emerging weapons systems** have **reappropriated** these **weapons systems to resist** their **imperial overlords**. As such, it is reasonable to conclude that **space weaponry could be countered through** a variety of **asymmetrical tactics** such as: **destroying** ~~disabling~~ **space weapons while in orbit** **through kinetic energy, or even nuclear anti-satellite attacks**; **destroying** the **facilities where space weapons are produced or launched**, **or** the **research and development centres** (such as **universities**) that are **integral to the production of these systems**; organising strikes for the workers involved in harvesting the necessary raw materials; and refusing to pay taxes to the political apparatuses that control these systems. While it is difficult to imagine what precise forms resistance to space weapons might take, it is not unreasonable to conclude that even in a context of space-based empire, some form of political and military resistance will be possible, and will occur. Indeed, **China's** recent **launch of an Anti-Satellite system** **is an example of a state actor at the boundaries of imperial order engaging in** such a **reappropriation of a weapons tech-nology**. **One of the reasons Chinese military strategists have given for developing Anti-Satellite tech**- nology **is that this** technology **exposes an asymmetrical vulnerability in the US military structure**. **The US military is already dependent on satellite systems to co-ordinate** its **communications and weapons targeting systems**. **By developing** a **technology that can destroy** ~~disable~~ **US communications and targeting satellites**, **the Chinese military would hope to disrupt the operational abilities of conventional US forces** should an actual shooting war between the two powers take place.70 The development gives us some idea of how **state and non-state actors at the margins of an empire** of the future **might resist space power by reappropriating its technologies**. Sovereignty as strategy Yet, even as China's ASAT test points to one possible way of resisting the empire of the future it also points to one way in which this empire is currently being constituted. Within US strategic planning circles China's ASAT test has been used as an impetus to increase funding to American space weapons research and development initiatives. This reaction by the US defence policy establishment is indicative of the strategic logic at work in the empire of the future. This strategic logic accelerates processes of deterritorialisation by pursuing the development of technologies that make the control of territory irrelevant; yet the logic simultaneously pursues the reterritoriali- sation of the US and orbital space as areas that should be off-limits to non- American actors. We are explicitly drawing on Deleuze and Guattari's concepts of deterritorialisation and reterritorialisation here.71 In their writings deterritorialisation refers to 'the movement by which "one" leaves the territory'. Reterritorialisation is the process that accompanies deterritorialisation, whereby the sovereign state apparatus recom- bines the deterritorialised elements to constitute a new assemblage. This is precisely the logic of the singular control by the US of weapons in Earth's orbital space. The strategy of the empire of the future undermines the binary logic of a states-system predicated either on territorially bounded sovereign states or a globally diffused, decentralised and deterritorialised biopolitical Empire as proposed by Hardt and Negri. Our analysis reveals a third possibility: in the empire of the future space power combines a set of otherwise heterogeneous processes. **Space based missile- defence strips all states** - **except the possessor** of the system - of **their hard shells by eroding nuclear deterrence** capabilities, **while providing the possessor of missile defence with a territory more secure from nuclear attack**. **Space control denies all states with the exception of the controlling power unfettered access** to space. Furthermore **it annexes orbital space as a territory of** the **space power**. Finally, **force application from orbital space makes any point on earth a** potential **target for the military force of empire** of the future. **This makes the traditional imperial imperative to project force through controlling territory no longer necessary**. **Empire of the future combines strategies of deterritorialisation and reterritorialisation to** simul- taneously **undermine** **some features of state sovereignty and reinforce others**. Therefore **the current assumption that many IR theorists make that international society must be based on either a collection of sovereign territorial states or deterritorialised biopolitical apparatuses ignores the possibility that these two processes can be co-constitutive**. In the empire of the future **the locus of authority is centralised but this authority governs a deterritorialised political entity**. While this new constellation of political power will present new possibilities for resistance, we should not underestimate how this empire's new modes of killing will constitute structures of domination potentially more terrifying than anything humanity has yet encountered.

#### Liberal heg impacts are threat construction – impacts are so abstract that their war scenarios are useless

David Chandler 9, Professor of IR at University of Westminster, "Liberal War and Foucaultian Metaphysics", Review of Dillon and Reid’s *The Liberal Way of War: Killing to Make Life Live*, www.research.kobe-u.ac.jp/gsics-publication/jics/chandler\_18-1.pdf

This is a book about the ‘liberal way of war’. But the liberal referred to in the title remains under theorized. On several occasions the authors highlight the distinction between the liberal way of war and the general framing of war in the modern liberal era as a geo-strategic contestation, taking the territorial state as its referent object. For Dillon and Reid, ‘liberalism never fitted this model of modern politics and the modern problematization of war very well’（p.83). They therefore seek to define liberalism and the liberal way of war as distinct from war in the liberal era. The liberal way of war refers not to real wars and conflicts but to an abstract model of conflict, defined as a desire to‘remove war from the life of humanity’which‘derives from the way in which liberalism takes the life of the species as its referent object of politics ─ biopolitics’（p.84）. In this framing, the liberal nature of war very much depends on the self-description of the conflict by its proponents: these range from Gladstone’s occupation of Egypt in the cause of‘suffering humanity’, to US liberal ideological constructions of the cause of‘freedom’in the Cold War struggle against the Soviet Union up to Bush and Blair’s war on Iraq in the cause of humanity（p.6）. As the authors state, of course, wars may be fought on other grounds than universal humanity: ‘liberal states may…also act as geopolitical sovereign actors as well…and may also have geopolitical motives for the wars they wage’（p.84）.¶ It is clear from the beginning that the distinctiveness of ‘the liberal way of war’ which they seek to explore cannot be more than a fool’s quest. They assert that they will critically uncover the paradox of liberal war: why it is that Realist or geostrategic war accepts the necessity of war but attempts to limit it, while liberals wish to end war but, to do so, are willing to fight unlimited wars. Yet, they admit that this starting point is already an ideological dead end ─ the wars of the twentieth century give the lie to the idea that there is some distinction between ‘unending crusades’ and ‘limited jousts between rationally calculative political subjects’: war has its own dynamic（p.7). Nevertheless, Dillon and Reid press on and seek to go beyond a Schmittian critique to ground this paradox in the biopolitical‘driver’of the liberal way of rule ─ biopolitics: wars waged under the banner of the human（against humans）are liberal and, allegedly biopolitical, as human life is declared to be the referent in need of being secured. These wars are alleged to be fought differently to geo-political wars for territory, because the ‘drivers’ of war are not territorialized interests but the biopolitical framings of the needs of the human, how human life can and should be lived. Inevitably there are insuperable methodological hurdles to this Sisyphusian task. Already, there occurs the first fundamental aporia: how do we tell the difference between a liberal and non-liberal war? There appears to be no way of preventing the category of liberal war from becoming a lifeless and descriptive one: wars are liberal and fought biopolitically only if we are told that these are the motives by those fighting them.¶ This separation of liberal ways of war from territorialised framings of geostrategic contestation makes little sense as a framework for understanding either liberal rule or liberal ways of war. In fact, in defining liberal war in this way the connection between liberal rule and war is entirely severed. ‘Liberal war may on occasions also be geopolitical; which is to say that war may be simultaneously geopolitical as well as biopolitically driven since the imperatives behind war are never uniform or simple; but what distinguishes the liberal way of war as liberal are the biopolitical imperatives which have consistently driven its violent peace-making.’（p.85）Liberal rule has also resulted in wars for territory or in defence of territories; nevertheless, a story, of course, could have been told about how views of the human fitted those of struggles to command territory. This is acknowledged, but sits uneasily with the narrow view of liberal war for species life. If the racial doctrines of European empires, up to and including the genocidal racism of the Nazi regime, were also biopolitically driven ─ and the authors, indeed, write of race as part of the‘liberal biopolitics of the seventeenth century’─ then it seems difficult to separate a liberal way of war from allegedly ‘non-liberal’ wars of territorial control.¶ It seems clear that Dillon and Reid do not seek to take the logical step of arguing that the view of the human reflects, and is reflected by, how the human is ruled and how wars are both thought and fought. Why? Because for them there is something suprahistorically unique and distinct about the liberal way of war: a distinctly liberal view which foregrounds the human as the referent of security. Therefore, a second aporia arises: on what basis is this specifically ‘liberal’? It would appear that every form of rule and of war has at least an implicit view of the ‘human’ and through this view of the human the form of rule and the way of war are rationalized. There is not and cannot be anything specifically ‘liberal’ about this. The humanity in need of securing, through war on other humans, could be formed by Alexander the Great’s stoic cosmopolitan vision, or could be‘God’s chosen people’, ‘the master race’, or ‘the gains of the proletarian revolution’: there is little doubt that beliefs of what the human is, or could become, were a vital part of many non-Liberal dispositifs ─ the discourses and practices - of both rule and war. ¶ The key starting assumption, that the liberal way of war can be isolated from any other - and its alleged specific form, of ‘unending violence’, explained by its referent of the human - appears to be a particularly unproductive one. At the level of abstraction at which Dillon and Reid choose to work, there is very little here that would help to distinguish between a liberal and a non-liberal way of war（the asserted purpose of the book）. Of course, what matters is what this view of the human is. Here Dillon and Reid appear to recognise the limits of their essentializing approach: …just as the liberal way of rule is constantly adapting and changing so also is the liberal way of war. There is, in that sense, no one liberal way of rule or one liberal way of war. But there is a fundamental continuity which justifies us referring to the singular…the fact that each takes the properties of species existence as its referent object…finding its expression historically in many changing formations of rule according…to the changing exigencies and understanding of species being…（p.84）¶ Rather than understand our forms of post-political rule and post-territorial war today on their own terms and then consider to what extent this way of rule and war can be theorized, and to what extent, if any, Foucault’s conception of biopolitics may be of assistance, Dillon and Reid start out from the assumption that we live in a liberal world of rule and war and that therefore both can be critiqued through the framework developed by Foucault in his engagement with understanding the rise and transformation of liberal forms of rule. In transposing Foucault’s critical engagement with liberal ways of rule to an understanding of liberal ways of war, Dillon and Reid take a body of historical work about the changing political nature of liberal rule and transpose it into an essentialised and under theorized understanding of liberal war. This is no mean feat; how they manage this accomplishment will be discussed in the next two sections.

### 1AC – Method (0:40)

#### Current policy of privatization of space creates rhetoric that creates reality, and the debaters should be held to this standard for the affectual benefit

**Pomeroy 15 (Caleb, “Discursively Constructing a Space Threat: ‘China Threat’ & US Security,” June 06, 2015, E-International Relations Students,** <http://www.e-ir.info/2015/06/06/discursively-constructing-a-space-threat-china-threat-u-s-security/>**. // EMS).**

This question’s use of the word “threat” can increase U.S. perceptions of a Chinese threat. Threatening versus nonthreatening language forces one to view space actions through a threatening versus nonthreatening lens. For example, an emerging amount of literature focuses on the “China threat theory.” Yong Deng (2006) argues that the “China threat theory” is foreign attributions to China as being harmful and destabilizing in international relations. Some analysts argue the theory helps defense industry insiders keep power and prestige gained during the Cold War by creating an existential threat supposedly facing the U.S. (Tiezzi, 2014). Though Beijing has disregarded this as Cold War-style power politics while reassuring the international community of its peaceful intentions, the risk still exists that the U.S. may genuinely feel threatened by China’s actions (Deng, 2006). However, **one reason may be the use of threat language and the subsequent understanding of actions as threatening or nonthreatening**. This is problematic, because it risks creating a discursively constructed security dilemma that increases the likelihood of space weaponization (Peoples, 2008). While space weapons are only in their infancy in terms of development and deployment, the “space policy discourse of several states is already predicated, to a greater or lesser extent, on the general probability of space weaponization, and this in turn risks premature preclusion of alternative outcomes” (Peoples, 2008, p. 503). The existence of U.S. perceptions of a China threat that arises from its use of threatening versus nonthreatening terminology leads the U.S. to perceive China’s increasing space power as threatening, even if it is not China’s intention (Gross Stein, 2013). Therefore, this question’s use of threat terminology can increase the likelihood that the U.S. will perceive a threat.

#### Even if the plan doesn’t literally happen, our pedagogy influences political culture

Lundberg 10 **– Professor of Communications at the University of North Carolina**

(Christian, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century by Allan D. Louden, p310-11 //Bosley)

The final **critique of debate pedagogy that** I address is that **debate practices promotes a naïve conception of the speaking citizen** that is inappropriate to our current democratic context. This critique of debate, **while useful in highlighting the changing conditions of governance that implicate all of us, fails** on two accounts.First, **even though the citizen speaking in public may not hold the same sway it once did** (if it ever did), **speech does make a difference in a number of democratic processes**: political speech influences how people vote and to whom they contribute money, and it makes a significant difference at a number of sites in the administrative apparatuses of modern government (for instance in public notice and comment practices). **More important, even if the romantic vision of the individual citizen’s speech changing the course of democratic life is a bit overblown in our context, political speech makes an important difference in noninstitutional practices of political socialization: political speech** not only **influences who we will vote for** but also sets the bar for **what we will put up with**, profoundly influences **our views regarding the legitimacy of public policies, and determines the range of opinions to which we are exposed.** Thus, **even if debate practices do not directly access the levers of power, they** might **play a significant role in the production and reformulation of our political culture.**

### 1AC – Underview (1:00)

#### The military has infiltrated the media and changed information to propaganda

Robin Andersen and Tanner Mirrlees in 2014, December 17 - <https://journals.flvc.org/demcom/article/view/83940> - “Introduction: Media, Technology, and the Culture of Militarism: Watching, Playing and Resisting the War Society” – Democratic Communique Vol 26 No 2

At a safe distance from the actual battles of war, civilians read war stories, hear war broadcasts, watch tele-vised war fictions and play war games. Yet this mediated field of spectacular vision and immersive narrative space is never actual war, but a partial, selective, often simulated and mostly partisan representation of it. It is something that has been constructed, scripted and produced, and over the years scholars have appreciated the disjuncture between war and its media representations and contemplated the consequences of the loss of the real. War itself refers to actual material referents: invasions, occupations, violent conflicts and coups, and the cities, deserts and jungles where people fight, bleed, kill and die. Media images, tropes, themes and myths of war often bear little resemblance to war itself. Philip Taylor contends that each time the U.S. military wages war, two kinds of war occur: an actual war and a “media war.”1 Civilians never see the actual war but instead consume or play media-engineered stories of conflict—a media war. Indeed, the products of this media war— news clips, TV shows, films, video games and digital content—represent America at war to U.S. and world publics in ways that often do not inform or foster empathy but instead reinforce national dichotomies and international conflicts. As Michael Billig points out, media images of nationalism often elicit viewer identification with a national self and distinguish this self from others.2 Media representations of nations at war contribute to territoriallybased “imagined communities,”3 showing and telling citizens who they are and who they are not in a world of warring states. The made-for media war obscures the economic and geopolitical causes of war and denies the horrors of its aftermath:4 when battles are scripted as bloodless entertainment and death and suffering get masked by heroic stories of spectacular victory. 5

The real war and media war are and should be seen as distinct, but over the course of the 20th century, they grew closer due to the power of new communication technologies—radio, TV and the computer—to visually integrate the home-front and the battlefront, here and there, near and far, local and global.6 The new “spaces” of war lead us back to the Great War, when the ties between the military and the media were forged. In the early 21st century, “media wars” are still shaped and moulded by the very institutions they represent.

#### Reject 21st century progressive rhetoric that seeks to cover up lies – neoliberalism undergirds a massive network of bunk scholars, organizations, and defense contractors who spin false narratives of revisionism and idealize liberal hegemony for profit

Johnson-Freese 17 [(Joan, Professor and chair of space science and technology @ Naval War College) Space Warfare in the 21st Century, Routledge, 2017, ISBN 978131552917]

The industrial side of the military–industrial complex is comprised of corporations with common interests and distinguishable characteristics from other sectors of transnational capital. They are overwhelmingly dependent on military sales as a percentage of total sales revenue. As of 2012, arms sales accounted for over half of the total sales of Lockheed Martin (76 percent), BAE Systems (95 percent), Raytheon (92 percent), General Dynamics (66 percent), and Northrop Grumman (77 percent). Their products are not easily transferrable to consumer uses and so they are dependent on government contracts. At least 9 of the 25 largest US defense firms have a significant aerospace focus: CACI International, ManTech, Rockwell Collins, Exelis, Computer Science Corporation, Raytheon, General Dynamics, Boeing, and Lockheed Martin.6 The political implications of this are stark. These companies inherently have a vested interest in maintaining and expanding systems, including weapons systems, which absent clear and direct external threats, may have limited political justification. Additionally, government counterparts to these for-profit companies have concurrently grown—some might even say, “become bloated”—and in many cases, a codependent relationship has developed between them. Since the United States began maintaining a large standing military after World War II, the general attributes of US foreign policymaking have both expanded and intensified the influence of the military–industrial complex. Foreign policy decision-making is supported by a complex array of institutions whose very existence is predicated on and justified by the presence of a broad spectrum of threats from individual terrorists to be hunted down on the ground and with drones to near-peer competitors which must be countered with overwhelming air, naval, and space power. The government agencies and offices with a role in national security have expanded from inner circle policymakers to entire bureaucracies. The National Security Council staff has grown consistently since the Carter Administration from a small secretariat of less than 20 individuals to over 400 people during the Obama Administration. Post 9/11, the military created a Northern Command (USNORTHCOM) in 2002 to defend the homeland and the Department of Homeland Security (DHS) was stood up “to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards”; these other hazards have come to include the safety hazards of deep-frying turkey and assuring that souvenir shirts sold at the Super Bowl are not Chinese knockoffs.7 DHS is now the third-largest government bureaucracy, employing more than 240,000 people. There are 17 different intelligence agencies occupying 33 building complexes, the equivalent of almost 3 Pentagons or 22 Capitol Buildings, and the intelligence community continues to expand.8 The Pentagon, with its some 23,000 military and civilian personnel, is only the hub of a Roman Empire-like division of the world into geographic military commands, the United States being the only country in the world brazen enough to create such commands. The sheer numbers of individuals, institutions, organizations, bureaucracies, and companies with a vested interest in preserving the self-licking ice cream cone9 that the ever-expanding military–industrial complex has become continues to expand. Government offices like the State Department’s Bureau of Diplomatic Security hire private military contractors from such companies as DynCorp International, Tigerswan, Triple Canopy, and Blackwater to protect diplomats and perform security functions. Employees of these companies are often retired Special Forces operators. Companies like Kellogg, Brown and Root (KBR), formerly a subsidiary of Haliburton and where former Vice President Dick Cheney was once CEO and Chairman, is an engineering, procurement, and construction company doing everything from building embassies to supplying military bases. Think tanks, consulting firms, and lobbying firms focused on defense and security issues have proliferated as well in terms of both quantity and investments. Members of Congress, traditionally elected largely according to the number of jobs they can bring home to their districts—and the campaign contributions they can raise—are part of the witches brew as well as they are largely supportive of defense contracts and the jobs those contracts bring. “Job loss” is among the first claims made by defense contractors in their appeals to Members of Congress when defense budget cuts or sequestration are threatened. Further, retired Members and their staffs are not immune to the lure of high-paying lobbying jobs. Defining Threats There is a wide breadth of individuals and institutions with a vested interest in maintaining threats to the United States that justify a significant defense budget. During the transition to the post-Cold War period, the US military was faced with potentially substantial cuts to military spending: the “peace dividend.” Consequently, the military suddenly found itself talking about taking on military operations other than war (MOOTWA), an acronym and job description that warriors found distasteful at best. Former Secretary of Defense Robert McNamara and other former Defense Department officials suggested that defense spending could safely be cut in half. Policy planning organizations with close ties to the military or military contractors—think tanks like RAND and the Center for Strategic and International Studies (CSIS)—were put to work to counter this claim and minimize budget cuts. They focused on the development of a new defense doctrine that would involve the retention of large-scale systems and big-ticket platforms like aircraft carriers, not just after the demise of the Soviet Union, but regardless of the short-term security environment. Contractors play an increasingly large part in the military–industrial complex as well. Political economist Ronald Cox explains the role of defense contractors in shaping that doctrine and defining threats—how the fox guards the henhouse in terms of threat identification: Military producers have a sustained relationship with key US foreign policy bureaucracies, especially the Defense Department. … The extent to which military contractors are embedded within the decision-making framework of identifiable bureaucracies within the US federal government makes their profit-making margins a function of the political process by which those departments and agencies identify long-term strategic threats.10 Thus, as considered in Chapter 1, defense strategies reflect needs but not necessarily national needs. Bureaucratic and corporate needs also play into definition of threats. Writing about the impetus to acquire nuclear weapons, Scott Sagan said, “bureaucratic actors are not … passive recipients of top-down political decisions; instead, they create the conditions that favor weapons acquisition.”11 Bruce DeBlois later applied that premise to space weapons, suggesting that “with an absence of clear top-down policy guidance on space weapons … military doctrine can build an inertia of its own, and impact – or even become – the default policy.”12 Also playing into the definition of long-term threats to US national security are think tanks—organizations often largely supported by the corporations themselves. Think tanks come in all varieties and sizes, some focused, some broad, some partisan, some not. The Heritage Foundation, for example, hosted a nine-city Defund Obamacare Town Hall Tour in 2013, headlined by Tea Party movement leader Jim DeMint, thereby clearly evidencing a partisan position. “Some [think] tanks on the left and the right of the ideological spectrum have grown so political that, to avoid losing their tax status as charitable organizations, they have established separate operations dedicated to lobbying and other advocacy work.”13 Some organizations, however, strive to be honest brokers of information in their areas of focus. The Secure World Foundation (SWF), for example, states its mission as “to work with governments, industry, international organizations, and civil society to develop and promote ideas and actions to achieve the secure, sustainable, and peaceful uses of outer space benefiting Earth and all its peoples.”14 Much of SWF’s ability to be nonpartisan and beyond the reach of corporate influence stems from it being privately funded. That is not the case with many organizations though. William Hartung and David Gibbs have written about the role of the largest defense contractors in the financing of conservative and neoconservative think tanks that have come to prominence in defense policy debates and discussions since the 1990s, and especially since 9/11; The Project for the New American Century (PNAC), the National Institute for Public Policy (NIPP), and the Center for Security Policy (CSP), for example.15 The Center for Security Policy receives onesixth of its funding from defense industries. CSP states on its website: The process the Center has repeatedly demonstrated is the unique ability that makes the Center the “Special Forces in the War of Ideas”: forging teams to get things done that would otherwise be for a small and relatively low-budget organization. In this way, we are able to offer maximum “bang for the buck” for the donors who make our work possible.16 While most think tanks declare their “intellectual independence,” the reality is that, even if they do not specifically declare an offer of “maximum bang for the buck” to their donors, they largely rely on corporate donations for their existence. Donors rarely support organizations advocating opposition views or producing information counter to their best interests. Relatively new on the block—and billing itself as “Bold. Innovative. Bipartisan.”17—is the Center for a New American Security (CNAS), founded by Dr. Kurt Campbell and Michele Flournoy in 2007. Both Campbell and Flournoy formerly served as heavy-hitters in the Obama Administration, Campbell in the State Department and Flournoy in the Defense Department. CNAS lists Boeing, the Carnegie Corporation, the Government of Japan, Northrup Grumman Aerospace Systems, and the Smith Richardson Foundation on its “honor roll” of those who have contributed more than $250,0000.18 Campbell and Flournoy are among the many former government employees who have gone on to create or work at think tanks. A strong overlapping relationship between the boards of directors of defense contractors, policy think tanks funded by these contractors, personnel in the Defense Department, and high-level cabinet executives is not uncommon.19 Reports and analyses prepared by these think tanks can weigh heavily in government policy decisions. The shaping of the post-Cold War defense posture, specifically in identifying new enemies, exemplifies the role of the expanded military–industrial complex to include influential corporations, think tanks, the Pentagon, and Members of Congress. Any doubt about the need for an identifiable enemy was firmly put to rest in March 1990 by Senator Sam Nunn, chairman of the Senate Armed Services Committee and an acknowledged ally of the military establishment. In a blistering attack on the Soviet-oriented military posture still officially embraced by Defense Secretary Cheney, Nunn charged that the Pentagon’s proposed spending plans were rendered worthless by a glaring “threat blank”—an unrealistic and unconvincing analysis of future adversaries.20 A 1988 CSIS report had warned against “maverick regimes,” a warning that was resurrected and amplified in response to Nunn’s charge. Reaching back to the Reagan Administration, these “maverick,” soon to be renamed “rogue,” regimes initially included Iran, Libya, North Korea, Cuba, and Nicaragua. Subsequently, the Rogue Doctrine was laid out in White House Fact Sheet in March 1990; it posited that the United States would continue to face considerable post-Cold War security threats, namely from states in the developing world that possessed or potentially would posses weapons of mass destruction and the capability to threaten vital US geostrategic interests in key regions.21 Iraq was added to the list later in the 1990s. Still, regardless of how dangerous they were, rogue states did not justify aircraft carriers and other big-ticket items. Large-scale Cold War weapons programs consequently declined by 17 percent under George H. W. Bush and by 12 percent during the first term of the Clinton Administration.22 That problem had to be addressed. Again, Sam Nunn led the charge to identify at least one worthy new opponent of the United States—one that could justify the retention of a large military structure, platforms, and expensive weapons systems. Concurrent to development of the Rogue Doctrine, Nunn had begun working toward that end with Chairman of the Joint Chiefs of Staff Colin Powell in 1988. Eventually, a new class of states called “emerging regional powers” was identified to include Argentina, Brazil, China, Egypt, India, Iran, Iraq, Israel, Libya, Pakistan, South Africa, Syria, Taiwan, Turkey, and the two Koreas. Each had different national interests and philosophical underpinnings that, for one reason or another, had justified large growth in their military structures and/or the development of weapons of mass destruction.23 Some countries eventually became US allies and/or recipients of large amounts of US military aid. Others came to be considered as potential threats—more specifically near-peer competitors, particularly China—that the United States might at some point have to confront on the battlefield. Consequently, the United States moved almost seamlessly from the Cold War Containment Strategy to the Rogue Doctrine and identifying potential near-peer competitors. The Plethora of Players Defense and aerospace contractors responded to post-Cold War reduced business opportunities through a mixture of economic and political strategies. Economically, corporate restructuring, layoffs, division sell-offs, and mergers and acquisitions of other firms were among the strategies used, with the Defense Department helping to arrange financing for those mergers and acquisitions from as early as 1993. Those tactics, in combination with the wider economic trends of the 1990s, “contributed to a defense sector whose top four firms were receiving a higher share of DOD contracts than had been true for most of the post-World War II period,”24 even after the Cold War. Politically, however, a new enemy worthy of the United States, a near-peer competitor, still had to be identified. In his 2011 book Prophets of War: Lockheed Martin and the Making of the MilitaryIndustrial Complex, William D. Hartung considered the impact Lockheed Martin had on defense policy and the benefits the company and individual company leaders reaped from maintaining a high threat profile.25 During the post-Cold War transition from containment strategy to the Rogue Doctrine and emerging regional powers focus, then Martin Marietta CEO Norman Augustine led the charge to build what he called a “super-company.” While some companies tried to absorb defense spending “peace dividend” cuts by diversifying their base business, Augustine rejected that approach. He felt it was his patriotic duty to keep producing weapons for America and frequently referred to the weapons industry as “the fourth armed service.”26 Beyond acquiring a number of small companies, including the military division of General Electric, Martin Marietta and Lockheed merged in 1995. Martin was clearly the dominant partner as evidenced by Augustine being the new CEO, top management positions being filled by Martin employees, and the new headquarters being based at Martin’s Bethesda, Maryland headquarters. Augustine’s political connections were unmatched. While still running the world’s largest defense contractor, Augustine also served on the Defense Policy Advisory Committee on Trade (DPACT), a group advising the Secretary of Defense on arms export policies; was on the Defense Science Board (DSB), an advisory panel with the power to push forward or scrap emerging weapons programs based on performance; and was President of the Association of the United States Army, a politically robust interest group of retired military personnel and army contractors. Those political connections paid high returns during the transition. Augustine played a central role in convincing the Newt Gingrich-led, Republican-controlled Congress to allocate or add billions in funding to Lockheed Martin projects from the F-22 combat fighter to the “Star Wars” missile defense program. Perhaps his greatest coup, however, was persuading Congress to bankroll the major arms industry mergers that were occurring with taxpayer money for “restructuring costs,” a policy that yielded hundreds of millions of dollars in government support to the creation of Lockheed Martin. As a result of an obscure policy change contained in a one-page memo from John Deutsch, then the Undersecretary of Defense (and a former Augustine business associate), the Pentagon authorized federal funding for closing plants, relocating equipment, paying severance to laid-off workers, and providing “golden parachutes” to board members and executives affected by the merger.27 The policy was not published in the Federal Register, the standard repository of virtually every important government action, and it was enacted without notification to Congress. The benefits that accrued from that policy were both organizational and personal. Lockheed Martin, for example, benefited by almost $1.8 billion. Personally, Augustine was promoted from being CEO of Martin Marietta to being CEO of Lockheed Martin. However, because he “left” Martin as a result of a consolidation merger, he was compensated in the amount of $8.2 million, approximately $2.9 million of that coming from taxpayer dollars.28 The incestuous link between the Pentagon, Congress, and defense companies is sold as being good for America based on the number one concern of voters. Jobs. No one is more sensitive to “jobs” arguments than Members of Congress, with those arguments often presented by lobbyists. In 2015, corporations reported more than $2 billion in congressional lobbying expenditures. K Street in Washington, DC, where many lobbyists’ offices are located, is sometimes known as the “road to riches” for retired Members of Congress, congressional staffers, and military officers who largely populate their ranks. Today, the biggest companies have upwards of 100 lobbyists representing them, allowing them to be everywhere, all the time. For every dollar spent on lobbying by labor unions and public-interest groups together, large corporations and their associations now spend $34. Of the 100 organizations that spend the most on lobbying, 95 consistently represent business.29 More often than not, the job of the lobbyist is to convince Members of Congress that cutting whatever program they are lobbying for will result in job losses in the Members’ district. Unemployed voters aren’t happy voters. In 2011, the aerospace industry put out a report saying that chopping the defense budget would put over a million Americans out of work. Cuts that could total up to a trillion dollars over ten years would “devastate the economy and the defense industrial base and undermine the national security of our country,” said Marion Blakeley, president of the Aerospace Industries Association (AIA), which sponsored and paid for the report.30 While companies like Lockheed Martin and Boeing claim that the number of defense firm employees has dropped to about 10 percent from a peak of 14 percent in 2008, some of those job losses, as in the case of Boeing, have come through moving employees to the commercial side of the business. In other cases, jobs have been lost through divestitures such as Northrop’s spin-off of Huntington Ingalls. Based on executive salaries though, job losses do not seem to come because companies are financially strapped. In 2010, Boeing’s CEO Jim McNerney made $19.7 million while Lockheed Martin’s CEO Robert Stevens took home $19.1 million.31 Stevens made $25.3 million in compensation in 2011, which was more than all but two Wall Street CEOs.32 The revolving door doesn’t just go between industry and the Pentagon, but includes Congress as well. In his 2014 book This Town,33 chief national correspondent for the New York Times Magazine Mark Leibovich explains a lot about influence peddling with a simple statistic: In 1974, just 3 percent of retiring members of Congress became lobbyists; now, 50 percent of retiring Senators and 42 percent of retiring House members stay in DC and become lobbyists.34 Websites like OpenSecrets.com, affiliated with the Center for Responsive Government, publish the names of former members and who they now lobby for, or become “senior advisors” to, which is basically the same thing.35 Trent Lott, Dick Armey, Tom Daschle, Tom Foley, and Scott Brown are among the bipartisan former Members on their list. President George W. Bush signed the Honest Leadership and Fair Government Act in 2007, intended to limit former Members’ and staffers’ immediate ability to cash in on their insider information in lobbying positions. President Barack Obama called it “the most sweeping ethics reform since Watergate.”36 A key provision required ex-Senators and administration executives to wait two years and representatives to wait one year as a “cooling off period” before becoming lobbyists. But loopholes seem to create more of a sieve than a barrier, and according to a 2015 report by the Center for Responsive Government and the Sunlight Foundation, encourage a culture of “shadow lobbying.”37 Of the 104 former congressional members and staffers whose “cooling off” period ends during the first session of the 114th Congress, which opens today, 29 are already in government relations, “public affairs,” or serve as counsel at a firm that lobbies. And 13 of those are even registered as lobbyists, working to shape policy in Congress or the executive branch on behalf of paying clients.38 The door doesn’t just swing only from government to the private sector. It swings both ways. In 2011, Ann Sauer left her position as a Lockheed vice president and lobbyist with a compensation package of $1.6 million. Senator John McCain hired her as the key Republican staffer on the Senate Armed Services committee in February 2012.39 Industry associations also advocate policy positions benefiting their large and continually growing memberships. For example, the National Defense Industrial Association (NDIA) is an organization with 9,000 corporate affiliates, 26,000 individual members, and no foreign membership. “The Association maintains close coordination with the DOD functioning though 56 chapters and 34 committees, each with direct access and a working relationship with the DOD. Divided up among these contractors is the largest single slice of the federal government’s budget.”40 There are also a multitude of industry organizations and associations specifically related to aerospace. The American Institute of Aeronautics and Astronautics (AIAA) with “more than 30,000 individual members from 88 countries, and 95 corporate members … is the world’s largest technical society dedicated to the global aerospace profession.”41 The Satellite Industry Association (SIA) bills itself as a unified voice on satellite industry policy, regulatory, and legislative issues. As a trade association representing the leading global satellite operators, service providers, manufacturers, launch service providers, and ground equipment suppliers … [SIA] actively promotes the benefits and uses of commercial satellite technology and its role in national security, homeland security, disaster relief and recovery, and the global information infrastructure and economy.42 There is an association or organization for every interest, oftentimes more than one. Many of the individuals staffing and connecting this multitude of organizations are retired military officers, many of them three- or four-star generals and admirals. Their rank provides them with substantive knowledge of the defense field and a career’s worth of Rolodex connections. For those seeking post-retirement consulting careers, that means access. According to retired Air Force General Gregory “Speedy” Martin, the practice of flag and general officers moving immediately to private sector jobs is both ethical and beneficial for American defense because it links private sector expertise with important Pentagon missions. “Access sounds sleazy, but it brings a value,” says Martin. “I am interested in doing things that I think the Air Force or [Department of Defense] might benefit from.”43 There is validity in what Gen. Martin says. Most Members of Congress and their staff have never served in the military and have little knowledge of, or even interest in, national security issues and needs unless it directly affects their district. While some staff and Members are or become very knowledge about national security and military issues, first-hand expertise from practitioners can be key to their education. Pentagon officials with broad portfolios of responsibility can also benefit from practitioner input on specific areas, especially technical areas like aerospace. The practice of exporting expertise from the military to the private sector is not inherently nefarious and, indeed, can serve the country. But the lines between education, advising, and persuasion are fine. That can be especially true when former flag officers, turned industry executives, visit the Pentagon. Their rank carries with it a sense of respect, indeed awe, from former subordinates who they are now courting for contracts. “When a general-turned-businessman arrives at the Pentagon, he is often treated with extraordinary deference—as if still in uniform—which can greatly increase his effectiveness as a rainmaker for industry. The military even has a name for it – the ‘bobblehead effect.’”44 Retired generals and admirals with a practiced command voice understand the persuasive effect their authoritative presence can have on former employees. The sheer number of these retired flag officers working as defense consultants or executives—sometimes referenced as “rent-a-general” practice—tells a story, with a significant increase shown during the fat budget years of the Gulf War. Between 2004 and 2008, 80 percent of three- and four-star officers joined defense firms upon retirement, up from less than 50 percent who followed that career path from 1994 to 1998. In some individual years, the move from senior military positions to the defense industry is a virtual clean sweep. In his 2010 investigative report for the Boston Globe, Bryan Bender found that 34 out of 39 three- and four-star generals and admirals who retired in 2007 went to work for defense firms—nearly 90 percent.45 In some specialized commands, this feeder system of military officers into lucrative defense jobs is so powerful that the same companies have hired successive generations of flag officers. Bender reported, for example, that the last seven generals and admirals responsible for controlling international arms sales at the Pentagon went to work post retirement as contractors selling weapons and defense technologies overseas. The rules governing post-retirement employment are part of federal statute 18 USC, section 207(c), that statute being known as the “revolving door” restriction. The Air Force explains this restriction in its post-retirement separation rules as follows: • This means that for one year after their service terminates, senior employees may not knowingly make, with the intent to influence, any communication or appearance before an employee of the agency in which they served in the year prior to their leaving, if the communication or appearance is made on behalf of any other person and official action by the agency is sought. • The purpose of this “cooling off” period is to allow for a period of adjustment for the former senior employee and personnel at the agency served and to diminish any appearance that government decisions are being improperly influenced by the former senior employee. • This restriction does not apply to “behind-the-scenes” assistance. However, it does not require that the former senior employee was “personally and substantially” involved in the matter that is the subject of the communication or appearance. • Instead, it applies to any representation back for the purpose of influencing employees at the agency that the employee just left.46 For two years after retirement, the Pentagon prohibits military officers from participating in “particular matters,” meaning ongoing contracts greater than $10 million that were under their command. But due to another convenient loophole, “new editions of older weapons systems are not considered ‘particular matters.’”47 Beyond loopholes, potential conflict of interest issues arise since these flag officers are often recruited for private sector employment well before they retire, raising questions about their independence in threat assessments, force planning, and general considerations of national interest versus the potential for postretirement gain. Further, the revolving door—perhaps more a blender than a door—is actually promoted and facilitated by the government with taxpayer money. Taxpayer-funded career seminars on how to network into private industry are held, for example, for Navy and Air Force flag officers on Coronado Island near San Diego, sometimes two full years before their retirement.48 Other retirees have been more peripherally involved with linking Pentagon needs to industry desires to fill those needs, acting as what was called Pentagon “Senior Mentors.” The Office of the Secretary of Defense defined a Senior Mentor as a retired flag, general or other military officer or senior retired military official who provides expert experienced-based mentoring, teaching, training, advice, and recommendations to senior military officers, staffs and students, as they participate in war games, warfighting courses, operational panning, operational exercises, and decision-making exercises.49 The Pentagon has stated that it increasingly needs and relies on these retired officer “mentors” to run war games and advise active duty commanders. But a series of media reports in 2010 raised issues about the program, specifically in terms of financial gains and conflicts of interest. In some cases, for example, if payment was made to a retired military officer through a defense company rather than directly, the military services didn’t even have to reveal the identity of the retiree. These were individuals who, in some instances, were making up to $440 an hour as mentors while drawing pensions as high as $220,000 per year and working full-time executive positions with defense companies.50 USA Today reported that of the 158 Senior Mentors they identified, 80 percent had financial ties to defense contractors, including 29 being full-time executives of defense companies. The Senate Armed Services committee took an interest in the Senior Mentors program, and soon thereafter, the Pentagon ordered a program overhaul.51 Consequently, Secretary of Defense Robert Gates announced sweeping changes to the program in April 2010. Mentors were to be converted to Highly Qualified Expert (HQE) positions and, consequently, were held responsible for complying with all applicable federal personnel ethics laws and regulations. Those regulations included financial disclosure statements and imposed a salary cap. The financial disclosure part included revealing employers, earnings, and stocks. The salary cap meant that a HQE could only be paid up to a specific authorized amount, an amount equivalent to the salary authorized for a four-star general officer on active duty—the most they could have made before moving to the private sector. Further, mentors became subject to federal rules designed to prevent conflicts of interest, such as prohibiting mentors from divulging nonpublic information to defense contractors or taking actions that have “a direct and predictable”52 effect on their private interests. In October 2011, the DoD Inspector General reported on compliance with the new policy, focusing on the Navy, Marine Corps, Joint Forces Command, Special Forces Command, and Strategic Command. The Army and Air Force were omitted as they were conducting their own compliance studies.53 Subsequent to the new rules being put into place, 98 percent of the retired officers from the Navy, the Marines, and three combatant commands left the Senior Mentor program. “It appears that, for at least some of the former military officers who dropped out the program, it’s clear which choice they made when it came to patriotism or money.”54 The kind of conflict of interest issue that had bothered the press and the Senate came up again in November 2011. Senator John McCain sent a letter to Defense Secretary Leon Panetta expressing concern about retired Air Force General turned Boeing executive Charles Robinson’s participation in a 2008 war game called Global Mobility “for a $51 billion aerial tanker contract Boeing was competing to win.”55 Boeing was later awarded the contract. McCain further criticized the Pentagon for taking two years to fulfill a FOIA request related to the subject. It is not just the Pentagon and defense firms who are keen to hire retired general officers. According to retired Army General Wesley K. Clark, private equity firms and Wall Street investors are also increasingly interested in enlisting retired flag officers as consequence of a broader phenomenon: the increasing importance of the military to America’s industrial base. “It’s the militarization of the economy,”56 Clark said; and he would know. Since leaving his position as NATO Supreme Allied Commander in 2000 and running for President from 2002 to 2004, Clark has worked for, often simultaneously, his own firm, Wesley K. Clark and Associates; the lobbying firm James Lee Witt Associates as Vice President and Senior Advisor; Rodman & Renshaw, eleventh largest investment bank in the United States, as former Chairman; Growth Energy, an alternative energy advocacy firm, as Co-Chairman; Geooptics LCC, an environmental data company, on the Board of Advisors; and the Blackstone Group, a private equity firm, as Senior Advisor. Clark is not alone in being sought after in the private equity, finance, and energy sectors. Retired Army General and former CIA Director David Petraeus was hired in 2013 by Kohlberg, Kravis, Roberts (KKR), a private equity firm specializing in leveraged buyouts, to head its KKR Global Institute. The role of the media—specifically, paying former military members to act as advisors for the media and spokespersons for Pentagon policy—must also be considered as part of the supporting cast of the military–industrial complex. Retired General Jack Keane, for example, appeared on Fox News nine times over a two-month period in 2014 to advocate for air strikes and special forces to defeat ISIS, declaring that a bolder strategy was required. He made similar calls for more military action before Congress. What was left unsaid by the media, though, (and in congressional witness disclosure forms) was that Keane had a very personal interest in seeing military activity ramped up. Keane is a special adviser to Academi, the contractor formerly known as Blackwater; a board member to tank and aircraft manufacturer General Dynamics where he was paid over $245,000 in 2013; a “venture partner” to SCP Partners, an investment firm that partners with defense contractors, including XVionics, an “operations management decision support system” company used in Air Force drone training; and president of his own consulting firm, GSI LLC.57 When the US military is involved in global conflicts, the firms that Keane is associated with benefit. Dean Ed Wasserman of the UC Berkeley Graduate School of Journalism was quoted in The Nation as saying, “I think an inclination to use military action a lot is something the defense industry subscribes to because it helps to perpetuate an overall climate of permissiveness towards military spending.”58 Those who profit from conflict certainly weren’t going to argue against it. The Pentagon has a track record of using the media for its own purposes as well. In 2002, during the run-up to the Iraq War, Assistant Secretary of Defense for Public Affairs Victoria Clarke launched a program to recruit “key influentials” (retired military officers) to help sell the war to the public. More than 75 individuals were eventually signed up to appear on television and radio shows as military analysts and/or to pen newspaper op–ed columns. Many of these analysts were also lobbyists for defense contractors. The Pentagon held weekly meetings with the analysts, providing them “street credibility.” The analysts benefited as the meetings indicated to their clients that they had personal access to the Pentagon, and they benefited the Pentagon by discouraging the analysts from questioning or criticizing Pentagon assertions. The arrangement worked well until New York Times reporter David Barstow reported on the program in 2008.59 As part of the investigation leading up to Barstow’s report, the newspaper sued the Defense Department and eventually gained access to 8,000 pages of e-mail messages, transcripts, and records describing years of private briefings, trips to Iraq and Guantánamo for the analysts, and an extensive Pentagon talking points operation. Barstow later won a Pulitzer Prize for his reporting. While issues regarding the military–industrial complex are evidenced across the board in defense policy and program decision-making, those that are space-related can be particularly noteworthy given their cost, endurance, and technical fatuity. When all the wheels are turning in the right direction, a program can become one of those highly lucrative self-licking ice cream cones. Missile defense provides an illustrative example of what that looks like. Within that strategic program, there are multiple smaller, related programs. Many endure for years before collapsing. The $5 billion Airborne Laser, the $1.7 billion Kinetic Energy Interceptor, and the 700 million Multiple Kill Vehicle were all canceled after no, or failed, testing.60 But yet the missile defense program lives on and is a testament to the persistence of its supporters.