# UNLV Round 3

## 1

**Interp – Unjust refers to a negative action – it means contrary.**

**Black Laws No Date** "What is Unjust?" https://thelawdictionary.org/unjust/ //Elmer

Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws.

**Violation – The Aff is a positive action – it creates a new concept for Space i.e. the treating of Space as a “Global Commons”.**

**Standards –**

**1] Limits – making the topic bi-directional explodes predictability – it means that Aff’s can both increase non-exist property regimes in space AND decrease appropriation by private actors – makes the topic untenable.**

**2] Ground – wrecks Neg Generics – we can’t say appropriation good since the 1AC can create new views on Outer Space Property Rights that circumvent our Links since they can say “Global Commons” approach solves.**

**Independently - the Plan is both Extra-T - since it establishes a new property rights regime AND Effects-T - since the Global Commons ISN'T INTRINSICALLY a reduction on Private Property in Space, it involves actions like creating a governance system AND redistribution/cooperation which is the I/L to their Colonialism Advantage - both of which are voters for Limits and Predictability**

**And, not specifying an actor or enforcement mechanism for the commons is a voting issue–lets them shift and delink out of all of our ground by shifting to the process we discuss and moots clash e.g. no concon if that’s how you enforce the commons–cx doesn’t check since it’s non verifiable and skews preround prep**

**DTD–T indicts the whole aff and no arg to drop on spec**

**No rvi–shouldn’t win for being fair**

**Competing interps–reasonability is arbitrary and causes a race to the bottom–finding the best model of debate is key to preserve the most substantive norms in the long terms but no frivolous race to the top since limited words in the res mean limited interps**

**Neg shells before 1ar theory–NC abuse was reactive and T uniquely first since only 2 months to discuss T whereas we can discuss 1ar theory whenever**

## 2

**Brazil’s commercial space industry is flourishing.**

**Nakahodo 21** [Sidney Nakao Nakahodo, Sidney Nakao Nakahodo is a Lecturer at Columbia University where he specializes in Political, Social, and Economic Development in Brazil. In parallel to his academic responsibilities he is currently involved in a number of technology startups, both as co-founder and advisor. Previously he was based in Washington DC and worked in private sector development and low carbon projects at the World Bank. Prior to joining the Bank he served as senior researcher for a major think tank in Brazil and consulted for the United Nations Development Programme. Sidney holds a Master of International Affairs from Columbia University's School of International and Public Affairs and a Bachelor of Materials Science and Engineering from the University of Sao Paulo (Brazil). He is also a graduate of the Advanced Studies Program in International Economic Policy at the Kiel Institute for the World Economy (Germany). 03-19-2021, "Should Space Be Part of a Development Strategy? Reflections Based Upon the Brazilian Experience," New Space, [http://doi.org/10.1089/space.2021.0002 accessed 12/14/21](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002%20accessed%2012/14/21)] Adam

Lately, there has been a surge of interest in commercial space in Brazil due to institutional development, private sector engagement, and entrepreneurial activities. A Committee of Development of the Brazilian Space Program (CDPEB) was established in 2018 and comprises representatives of several Ministries. The CDPEB has the mandate to advise the President on the implementation of the Brazilian Space Program. Among its primary responsibilities is the elaboration of the General Law of Space, which is expected to provide the guidelines for commercial space activities.[13](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B13) In May 2020, Brazilian Space Agency (AEB) issued a public call inviting local and foreign companies to use its civilian launch facilities.[14](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B14) The private sector has been actively promoting commercial space. An industrial cluster now constitutes a “Space Valley” around the Sao Jose dos Campos Technology Park (PqTec), with spin-off companies impacting both space and nonspace sectors. The Aerospace Industries Association of Brazil (AIAB) is a trade organization of traditional space companies and defense contractors such as Avibras, Akaer (Opto), Atech, Fibraforte, Orbital, and SIATT. According to its website, AIAB has 30 members working in small satellites, satellite structures, payloads, satellite equipment, ground systems, propulsion, sounding rockets, and launchers.[15](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B15) Braskem, the world's leading biopolymer producer, has partnered with Silicon Valley-born startup Made in Space to produce recyclable plastic objects in the ISS.[16](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B16) Since 2017, AEB has organized the Brazilian Space Industry Forum, an annual event that congregates stakeholders, fosters the exchange of ideas, and promotes collaboration between domestic and international participants. The U.S.-Brazil CEO Forum, which brings together 12 U.S. and 12 Brazilian CEOs to develop joint recommendations for both governments on how to increase bilateral trade, proposed the development of a framework for joint space research programs in 2019. A small but vibrant New Space startup community is rapidly forming. The Alliance of Brazilian Space Startups was launched in 2020. Although some companies target low earth orbit and beyond, others are creating solutions to our planet using space technologies. PION has commercial products focusing on space and education. CRON and EMSIS have developed software and hardware for CubeSat missions, whereas Alya Nanosatellites aims to launch a constellation and tap into the earth's observation market. DeltaV, a spin-off from INPE, specializes in propulsion systems. ACRUX and VSAT are working on small satellite launchers. Airvantis sent multiple educational experiments to the ISS and has partnerships with companies and space agencies worldwide. The startup is carrying out Brazil's first lunar mission.[17](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B17) In parallel, Agrosmart, Solinftec, and Strider are harnessing the power of space assets to provide remote sensing, weather forecast, and image processing services to the agricultural sector.[18](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B18) Data companies such as Storm have incorporated open source algorithms developed by NASA for security applications.[19](https://www.liebertpub.com/doi/full/10.1089/space.2021.0002#B19)

**Strong space sector cements Brazilian prestige and international influence–commons doesn’t solve because the sector is seen as part of something larger, private rights are key**

Dr. Robert C. **Harding 17**, Professor of Political Science at Valdosta State University, PhD in Political Science from the University of Miami, MA from the University of Louisville, Space Policy in Developing Countries: The Search for Security and Development on the Final Frontier, Paperback Edition, p. 1-4

Change in the post-Cold War period has become the standard of our time. Whether it be the changing power structure of the international system, climate change, the speed of technological innovation, or changes within our societies, the current international situation is one of constant, accelerating transformation. One area that has certainly evolved is the importance and priority given to space-related programs by a growing number of countries around the world. As the various captains of Star Trek fame have somberly declared, space really is the final frontier. But while it has been the basis for engaging science fiction, outer space nonetheless has a very down-to-Earth feature—it has become the ultimate venue for the growth of national power and socioeconomic development among a number of the world’s emergent states. This new paradigm of international relations has been evolving for over 50 years. From the Soviet Union’s launch of Sputnik in 1957, many states began to include space-based security concerns in their foreign policies, which forced them to consider what the then-new operations in space meant for national security; they also began to integrate space-based assets into their approaches to a wide range of national development challenges, from agriculture to health improvement to the development of natural resources. Though the importance of space to national power, prestige, and potential has been less obvious in the intervening years since the heady days of the Cold War’s space race, its significance has never waned and continues to increase as many states increase national space budgets. Space has, in fact, earned a permanent place at the table in matters of international conflict, peace, national and international development, and international law. Space was at one time the sole domain of the wealthiest developed countries. The United States and the Soviet Union/Russia, and to some extent the European Union, dominated the use of space and the associated technology in the first decades after World War II. But the last couple of decades of the twentieth century and the first decade of the twenty-first witnessed an increase in the number of countries with state-supported space programs. At this writing, no fewer than 25 developing states, including the rapidly emerging economic powers of Brazil (the sixth largest), China (second largest), and India (fourth largest), possess active national space programs with proven independent launch capability or concrete plans to achieve it soon. Space programs and their related technologies are now an integral part of the strategic and developmental policies of many relatively wealthy developing states that aspire to elevate their international status, security, and economic future. A multitude of other developing states as diverse as Mexico, Nigeria, and Malaysia have established and elevated their own space policy through the creation of national space agencies and the purchase and/or production of satellites and related space technology either through state, private, or joint efforts. For these smaller and rising middle powers, the acquisition of space capabilities is now an integral component of their national policies. Though commercial enterprise is not a focus of this study, it must be noted that as the cost of space-related technology has decreased dramatically, the expanding number of national state actors in space has been paced by the equally impressive expansion in the number of strictly commercial space companies. Communications, geospatial information, and a wide variety of other services provided by commercial satellites affect much of modern life, and also provide vital information to governments, their agencies, and business interests worldwide. This information covers many of the same areas that national governments find important to national well-being, such as weather and climate monitoring, water management, environmental observation, topographic mapping, natural disaster planning, and crop management. These services are provided commercially by a growing cadre of companies that build satellites, create the associated technologies, and are beginning to provide basic launch services, all areas that were previously the exclusive domain of state-owned space agencies. The growth of commercial space services has been a double-edged sword for states. By 2010, the global space industry was estimated to be worth US$276.52 billion, an 18 percent increase over 2009.2 Of this total, worldwide commercial satellite industry revenues rose 11 percent to US$160.9 billion in 2010.3 Despite sporadic attempts to control its proliferation, commercial satellite imagery has become so good and so broadly disseminated that many national governments, for example Israel, have complained that its existence endangers national security because potential terrorists now have access to the detailed satellite imagery necessary to plan precise attacks. Until the 1990s, such high-resolution satellite imagery was almost exclusively the domain of the militaries of developed space powers, which, for national security reasons, did not generally make their data public. And since there were a limited number of states with the capability to launch surveillance satellites, the potential sources were likewise limited. Those civilian satellites that did operate before the 1990s provided imagery of a much lower spatial resolution than their military counterparts, typically not showing clear images of objects smaller than 10 meters across. However, that situation changed with the launch of the US company Lockheed Martin’s Ikonos satellite in 1999. Its spatial resolution of one meter meant that for the first time, no country could depend on geographic distance and national borders to ensure state secrets. The situation became even more fluid through the 1990s and into the 2000s as the transfer of space technology—satellites and associated technology— became a commercially viable avenue for major satellite producers. Today, imagery services such as Google Earth have revolutionized access to satellite imagery in the same way that cell phones have changed communications access for hundreds of millions of people around the world—they have democratized it. Nonetheless, the growing actual importance of space policy stands in stark contrast to the popular perception of the significance of space in the modern world. Indeed, more than 50 years after the launch of Sputnik, the exploration of near space via the moon-landings, and various robotic missions to the solar system’s planets, surveys have shown that few people in the West still consider space as anything novel. The popular mindset has moved on to the wonders of the “information age” and the benefits (or detriments) of globalization. The generations of technology spawned by those earlier days of space exploration have been indispensable in the creation of our high-tech, instantaneous world, but space and its benefits are now so integrated into our daily infrastructure that most people do not give it a second thought. The reactions to the Challenger and Columbia space shuttle tragedies aside, public complacency toward the importance of space has become the rule, rather than the exception. Despite these popular sentiments, the recent expansion of space programs in the developing world demonstrates that national governments have never altered their view of the importance of space for achieving and expanding national power—militarily or socioeconomically. This expansion of space programs is especially noteworthy because it reflects an emergent democratization of space, which is one of the most important factors in the changing distribution of power in the current international arena. Many countries now use satellites for communications and obtaining weather data, through ownership or simply purchase of the data. In fact, this broadening and expansion of the usage of space and the attendant transformation of power distribution is seen by some observers as leading to a new space race, albeit one that has yet to gain the high profile that the previous contest had during the Cold War. This competition is emerging as the catalyst for a new generation of space-related policies and innovations in both established and emerging space-faring countries. Consider how one recent space-related event affected the dynamic of interstate relations. In January 2007, the news that China had successfully tested an anti-satellite ballistic missile sent shockwaves around the world’s foreign policy community. By shooting down one of its own aging satellites from low Earth orbit, China—a country that only a generation before was seen as poor by most measures—demonstrated its intent to join the existing space powers, thus attracting attention, if not commanding respect as a potential world power. China plans to land a nuclear-powered unmanned rover on the moon by 2013, and to have in place an orbital military space station later in the second decade of this century.4 But while China’s space policy is more ambitious and better funded than those of other developing states, it is by no means unique. The next year of this twenty-first century space race saw India following up on the Chinese success by launching its own successful probe to the moon. Around the world, increasing numbers of developing countries are investing in space-related technologies, seeking partners for space projects, and even constructing launch facilities that may one day rival the established space powers of the United States, Russia, the European Union, and more recently Japan. But what motivates a developing country, which by definition is relatively poor, to spend the comparatively large amounts of money required for these space adventures? The short answer is that, like the United States and the Soviet Union before them, developing countries pursue active space policies because of the recognition that space is, in many ways, the ultimate measure of national power, international prestige, and demonstrated national potential. Moreover, space-based assets allow states to more fully utilize their national resources and to expand the reach of domestic socioeconomic programs into areas as diverse as agriculture, education, medicine, and economic development. Thus a space program figures as an integral facet of any capable state’s national security and developmental policies. The benefits of a successful space program include advanced communications, a platform for technology improvement, greatly enhanced geographic information, and, for some, expanded defensive and intelligence capabilities. Equally important, space programs can provide the host state with increased international prestige, which accrues both domestic and international advantages. Hence, developing countries are merely being rational state actors and following the path pioneered by those space-faring states that preceded them.

**It's key to project success AND overcome historical domination**

Dr. Robert C. **Harding 17**, Professor of Political Science at Valdosta State University, PhD in Political Science from the University of Miami, MA from the University of Louisville, Space Policy in Developing Countries: The Search for Security and Development on the Final Frontier, Paperback Edition, p. 23

Space programs bestow equally important soft power, especially those that involve human space flight. Every major space power has spent considerable funds to achieve the ability to put humans in space for both tangible and intangible benefits. Logsdon (2007) has argued that human space flight ranks among the most intensely patriotic symbols of modern times.27 Some of the emerging space actors have pursued or are pursuing human space flight as a demonstration of their programs’ sophistication, and their astronauts are held up by their governments as national patriotic icons. As will be discussed in Chapter 3, for the largest EMSAs—Brazil, China, and India—their space programs have been touted not only as national accomplishments but as a national catharsis to overcome histories of direct and indirect domination by outside powers and to project to others a sense of greatness.

**Brazilian leadership solves every threat–specifically, warming, bioD, and disease**

**Huck 20** [Luciano Huck, from the Law School of the University of São Paulo, Host of Rede Globo, Founder of Joá Investments 1/15/2020, "This country is vital to 'global survival'," World Economic Forum,<https://www.weforum.org/agenda/2020/01/what-happens-next-in-brazil-has-global-consequences-here-are-three-priorities-for-the-next-decade/> accessed 12/14/21] recut Adam

From spiralling geopolitical tensions in the Middle East to raging forest fires in Australia, 2020 certainly started with a bang. A shortlist of some of our biggest existential threats includes accelerating climate change, staggering inequalities and the failure of nation-states to cooperate to mitigate shared global risks. With all the bad news, it is hard to see the incredible possibilities on the horizon, not least advances in health, education and the boundless potential of new technologies. A growing number of businesses including huge asset managers like BlackRock are also becoming greener. All of these challenges and opportunities are apparent in Brazil, the world’s fourth-largest democracy and its ninth biggest economy. Brazil will play a leading role in how the next decade unfolds. A big reason for this is its immense natural resources - including over 40% of the world’s tropical forests and 20% of the planet's fresh-water supply. The Amazon is often described as the "lungs of the world" - for good reason. But the lungs are collapsing as a result of man-made fires and runaway deforestation. With more than 210 million citizens, Brazil also has an impressive stock of human resources. But it is also convulsed by breathtaking inequality and grinding poverty. Complicating matters, we are facing a crisis of political leadership and shirking our international responsibilities. What happens next in Brazil has far-reaching consequences for global survival. The decisions adopted by Latin America's largest country - whether in relation to protecting the Amazon, reducing inequality or strengthening multilateral cooperation - will help determine whether this is the world's best century or its last one. The sheer scope of the challenges facing Brazilians can feel overwhelming. Without a transformative vision and narrative, a renewal of political leadership, and tangible improvement, people feel rudderless and afraid. For the past 20 years, I've been taking the pulse of Brazil. I produce and present a popular television program reaching roughly 30 million Brazilians every week. Most of the time, I travel across the country listening to the inspiring and heartbreaking stories of my countrymen and women. They remind me every day why I need to contribute to building a better Brazil. So here are three challenges that I firmly believe Brazilians can turn into opportunities. Amazon 4.0 Dramatic fires and deforestation in the Amazon made global headlines in 2019. Despite the best efforts of the Brazilian authorities to conceal the problem, the Science Ministry's own satellite data showed that deforestation rates were at the highest levels in two decades. While falling out of the international news cycle, the destruction continues. If deforestation persists at current rates, irreversible die-off could convert the world’s largest tropical forests into its largest savannah. This would release up to 140 billion tons of stored carbon into the atmosphere, effectively scuppering efforts to meet the Paris Agreement targets. A radical new paradigm is needed to ensure the sustainable stewardship of Brazil's stunning cultural and biodiversity. It must harness the Amazon's most powerful resource - the 25 million people who live there. For one, there has to be zero tolerance for deforestation and a concerted focus on improving the productivity of areas where forests have already been cut down. Roughly 90% of deforestation in the Amazon is illegal and at least two-thirds of the 80 million hectares of cleared land are under-used, degraded and abandoned. Just as important as sustainable agri-business, the expansion of eco-tourism, investment in biotechnology research and the development of fairly-traded rainforest products. In a survey conducted in August of 2019, the majority of Brazilians thought that the Amazon rainforest was a reason for national pride. At that time, up to 68 percent of respondents in Brazil strongly agreed with the sentence Reducing inequality Deepening social and economic inequality within countries is fundamentally reconfiguring domestic and international politics. In some cases, governments are retreating from multilateral cooperation and reverting to reactionary nationalism and protectionism. These dynamics are apparent in Brazil, among the world’s most unequal countries. Although Brazil made important advances in reducing poverty since the 2000s, inequality remained stubbornly high. And in recent years, per capita income plunged and the gap between the rich and poor started rising, wiping out many social gains of the previous three decades. Today, the average monthly income of the wealthiest one per cent is more than 33 times the income of the poorest 50%. Inequality not only hinders economic growth, but it also fuels polarization and populism. Brazil needs to put inequality reduction at the top of the national agenda in 2020. A combination of common-sense interventions are required: ensuring the fairer collection of taxes, reducing subsidies for the wealthy, rolling-out more equal opportunity policies, and stimulating opportunities for the most vulnerable. Most important of all is dramatically improving the quality of basic public education, especially early childhood schooling. Brazil's education system is failing poorer families. Wealth inequality is reinforcing inequality of opportunity for the next generation. To win the war on inequality, Brazil needs an inclusive growth strategy, one that is not limited to growing income and smart deregulation but also ensures that quality public services delivering security, education, health, sanitation and transportation reach all citizens, not just those who pay a premium for them. Restoring leadership After years of corruption and stagnation, Brazil is suffering from sharp societal divisions and simmering tensions. In 2013, well before the street protests that flared up in Bolivia, Chile, Colombia and Ecuador, Brazil experienced the largest demonstrations since the restoration of democracy in 1985. The impeachment of President Dilma in 2016, the unprecedented unpopularity of the Temer administration and the election of far-right Jair Bolsonaro in 2018 revealed the extent of dissatisfaction with the status quo. Bolsonaro was partly elected because the credibility of Brazil's political establishment was demolished by ongoing “Car Wash” investigations into government corruption. Exhausted by scandal and stagnation, Brazilians voted for change. To tackle the big challenges of the next decade, Brazil needs to restore and renew its political leaders from the top to bottom. Accountable, responsible and representative leadership and public service are fundamental to revitalizing the social contract. This won't happen spontaneously. It requires a conscious effort to attract and invest in talent. it also demands that each and every Brazilian gets involved. In 2017, I joined Agora, one of several dynamic civic movements investing in a new generation of leaders committed to a more inclusive and sustainable Brazil. And in 2018, I co-founded RenovaBR, attracting over 4,600 submissions from people who'd never been involved in politics for training in governance and ethics. Of the 120 successful applicants, 17 were elected to federal office that year. Brazil is a country of infinite possibility. It has achieved breathtaking gains over the last generation - bringing tens of millions of people out of poverty. But these improvements were fragile. As we’ve seen in other parts of the world, when societies and living standards start moving backwards, social protest and unrest are not far behind. This is dangerous. Irresponsible leaders can take advantage of the fear and uncertainty that result. But we can also fight back. We will start rewriting the Brazilian story in 2020, first by acknowledging our most intractable problems and then by leveraging our tremendous creativity, scientific prowess and expertise. This means stepping out of our comfort zones. Powered by civic and social entrepreneurs from across the political spectrum, we can rebuild a positive vision for the future in Brazil.

## 3

**The plan requires clarifying international space law---causes strategic bargaining to extract concessions**

Alexander William **Salter 16**, Assistant Professor of Economics, Rawls College of Business, Texas Tech University, "SPACE DEBRIS: A LAW AND ECONOMICS ANALYSIS OF THE ORBITAL COMMONS", 19 STAN. TECH. L. REV. 221 (2016), https://law.stanford.edu/wp-content/uploads/2017/11/19-2-2-salter-final\_0.pdf

V. MITIGATION VS. REMOVAL Relying on international law to create an environment conducive to space debris removal initially seems promising. The Virginia school of political economy has convincingly shown the importance of political-legal institutions in creating the incentives that determine whether those who act within those institutions behave cooperatively or predatorily.47 In the context of space debris, the role of nation-states, or their space agencies, would be to create an international legal framework that clearly specifies the rules that will govern space debris removal and the interactions in space more generally. The certainty afforded by clear and nondiscriminatory48 rules would enable the parties of the space debris “social contract” to use efficient strategies for coping with space debris. However, this ideal result is, in practice, far from certain. To borrow a concept from Buchanan and Tullock’s framework,49 the costs of amending the rules in the case of international space law are exceptionally high. Although a social contract is beneficial in that it prevents stronger nation-states from imposing their will on weaker nation-states, it also creates incentives for the main spacefaring nations to block reforms that are overall welfare-enhancing but that do not sufficiently or directly benefit the stronger nations. The 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (more commonly known as the Outer Space Treaty) is the foundation for current international space law.50 All major spacefaring nations are signatories. Article VIII of this treaty is the largest legal barrier to space debris removal efforts. This article stipulates that parties to the treaty retain jurisdiction over objects they launch into space, whether in orbit or on a celestial body such as the Moon. This article means that American organizations, whether private firms or the government, cannot remove pieces of Chinese or Russian debris without the permission of their respective governments. Perhaps contrary to intuition, consent will probably not be easy to secure. A major difficulty lies in the realization that much debris is valuable scrap material that is already in orbit. A significant fraction of the costs associated with putting spacecraft in orbit comes from escaping Earth’s gravity well. The presence of valuable material already in space can justifiably be claimed as a valuable resource for repairs to current spacecraft and eventual manufacturing in space. As an example, approximately 1,000 tons of aluminum orbit as debris from the upper stages of launch vehicles alone. Launching those materials into orbit could cost between $5 billion and $10 billion and would take several years.51 Another difficulty lies in the fact that no definition of space debris is currently accepted internationally. This could prove problematic for removal efforts, if there is disagreement as to whether a given object is useless space junk, or a potentially useful space asset. Although this ambiguity may appear purely semantic, resolving it does pose some legal difficulties. Doing so would require consensus among the spacefaring nations. The negotiation process for obtaining consent would be costly. Less obvious, but still important, is the 1972 Convention on International Liability for Damage Caused by Space Objects, normally referred to as the Liability Convention. The Liability Convention expanded on the issue of liability in Article VII of the Outer Space Treaty. Under the Liability Convention, any government “shall be absolutely liable to pay compensation for damage caused by its space objects on the surface of the Earth or to aircraft, and liable for damage due to its faults in space.”52 In other words, if a US party attempts to remove debris and accidentally damages another nation’s space objects, the US government would be liable for damages. More generally, because launching states would bear costs associated with accidents during debris removal, those states may be unwilling to participate in or permit such efforts. In theory, insurance can partly remediate the costs, but that remediation would still make debris removal engagement less appealing. A global effort to remediate debris would, by necessity, involve the three major spacefaring nations: the United States, Russia, and China.53 However, any effort would also require—at a minimum—a significant clarification and—at most —a complete overhaul of existing space law.54 One cannot assume that parties to the necessary political bargains would limit parleying to space-related issues. Agreements between sovereign nation-states must be self-enforcing.55 To secure consent, various parties to the change in the international legal-institutional framework may bargain strategically and may hold out for unrelated concessions as a way of maximizing private surplus. The costs, especially the decision-making costs, of changing the legal framework to secure a global response to a global commons problem are potentially quite high.

#### Russia uses negotiations to push the PPWT---erodes US space dominance

Michael **Listner 18**, JD, Regent University School of Law, the founder and principal of the legal and policy think-tank/consultation firm Space Law and Policy Solutions, Sept 17 2018, "The art of lawfare and the real war in outer space", The Space Review, www.thespacereview.com/article/3571/1

A battle for primacy in outer space took place on August 14, 2018, among the Russian Federation, the United States, and, indirectly, the People’s Republic of China. This battle did not involve the exotic technology of science fiction, antisatellite weapons (ASATs), or the incapacitation of satellites; it was not part of a hot war and did not even occur in outer space. Rather, it took place in the halls of the Conference of Disarmament in Geneva, Switzerland, and concerned the interdiction of the hypothetical deployment of instrumentalities of a hot war in outer space. The carefully orchestrated arena for this battle by the proponents of banning so-called space weapons involved methodologies, institutions, and agents of international law but was undermined by a vigorous counterattack by the United States using the same forum and suite of instruments so skillfully levied against it.1 This battle, of course, is not a single instance but the latest skirmish of a much larger conflict involving real war in space. There’s been significant attention—and overstatem­ent— about the effect of a proposed Space Force by the United States, including an arms race and dominance as articulated by the United States,2 yet little attention has been given to the contest that continues to be fought over outer space using the tools of international law and policy, both of which are instruments of “lawfare.” Maj. General Charles N. Dunlap, Jr. (retired)3 first defined lawfare in the paper “Law and Military Interventions: Preserving Humanitarian Values in 21st Conflicts,” as “a method of warfare where law is used as a means of realizing a military objective.”4 This definition can be expanded to the use of hard law, soft law, and non-governmental organizations and institutions within the international arena to achieve a national objective and geopolitical end that would otherwise require the use of hard power. As observed by General Dunlap, lawfare imputes the teachings of Sun Tzu in particular this teaching: “The supreme art of war is to subdue the enemy without fighting.”5 Lawfare is not a new concept and has been used in many domains, but the tools brought to bear have become more prolific, and the domain of outer space has been and continues to be a theater where it is applied. The earliest example of lawfare (even though the term was not yet coined) in outer space occurred pre-Sputnik with Soviet Union attempting to use customary law to make claims of sovereignty extending beyond the atmosphere to the space above its territory. This claim was preempted by the launch of Sputnik 1 and the act of the satellite flying over the territory of other nations.6 The Eisenhower Administration saw this as an opportunity to meet a national space policy goal and likewise used customary law as an implement of lawfare and successfully created the principle of free access to outer space, which it utilized for photoreconnaissance activities in lieu of overflights of another nation’s sovereign airspace.7 The Soviet Union unsuccessfully attempted to defeat this move using lawfare in the United Nations through a proposal that would have prohibited the use of outer space for the purpose of intelligence gathering.8 Since that setback, the art of lawfare in outer space has settled on the objective ascribed to another teaching of Sun Tzu: “With regard to precipitous heights, if you proceed your adversary, occupy the raised and sunny spots, and there wait for him to come up. Remember, if the enemy has occupied precipitous heights before you, do not follow him, but retreat and try to entice him away.”9 The second part of this teaching exemplifies the role of lawfare in the present war in outer space: to employ the tools and institutions of international law as a means to legally corner an adversary and gain geopolitical advantage in soft power, with the aim of slowing and eroding the advantage that adversary has attained through preeminence in the domain of outer space, and replace it with their own. This objective is accomplished by two general means: legally-binding measures, most commonly in the form of treaties, and so-called non-binding measures couched as sustainability. Lawfare in space continued in the intervening years between Sputnik-1 and the signature and ratification of the Outer Space Treaty and afterward. The weapon of choice: disarmament proposals for outer space. Provisions for banning so-called space weapons in the Outer Space Treaty were rejected by the Soviet Union in favor of separate arms control measures.10 These measures included proposals, some of which related to the proscription of ASATs, designed to not only gain an advantage in outer space but to gauge political intent and resolve.11 The lawfare offensive escalated after the proposed Strategic Defense Initiative with an effort curtail space-based missile defense technology through a ban on so-called space weapons and a proverbial arms race in outer space. The Prevention of an Arms Race in Outer Space (PAROS), introduced in 1985, continues to seek a legally binding measure to place any weapon in outer space, including those designed for self-defense. It spawned measures such as the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects (PPWT), co-sponsored by Russia and China. This and other measures have met resistance as unverifiable and certainly are not likely to gain the advice and consent of the US Senate for ratification. The end game of the use of lawfare in the form of efforts like PAROS—the latest attempt at which was defeated in Geneva—is to propose legally binding measures that proponents would ignore to their advantage in any event. The sponsors and advocates of these hard-law measures recognize they will not come to fruition but, in the process of promoting them, will enhance their soft power and moral authority, which can be applied to entice their adversary down. Non-binding resolutions and measures in the form of political agreements and guidelines are being used concurrently in the lawfare engagement in outer space, where proposals for legally binding measures alone fall short of the goal of creating hard law and challenging dominance in outer space. These resolutions and measures, which emphasize sustainability, are designed to perform an end run around the formalities of a treaty to entice agreement on issues that would otherwise be unacceptable in a hard-law agreement. These measures have the dual effect to create soft-power support on the one hand and hard law on the other. This tool of lawfare, which uses clichés of cooperation and sustainability, is a ploy that applies the ambiguous nature of customary international law to achieve what cannot be done through treaties: to “entice the adversary away” and create legal and political constraints to bind and degrade its use of outer space or prevent it from maintaining its superiority, all the while allowing others to play catchup and replace one form of dominance with another. While lawfare is by nature asymmetric, this indirect approach could be considered a subset an irregular tactic of lawfare, as opposed to the use of formal treaties in lawfare. The crux is that, like space objects used in outer space, international law and its implements are dual-use in that they can be used for proactive ends or weaponized, with those using the appliances of lawfare to encourage cession of the high ground choosing the latter rather than the former. The decision to weaponize international law and its institutions to prosecute this war in space brings into question the efficacy of new rules or norms. Indeed, the idea of expanding the jurisprudence of outer space through custom, as being suggested by the United States, and more recently gap-filling rules being suggested by academia that could become custom, presents the real chance that, rather than the creation of the ploughshare of sustainability, new and more effective swords for lawfare will be forged. To paraphrase Sun Tzu, “all war is deception.” In the case of outer space, the pretext in the current war in space is that an arms race and a hot war in outer space is inevitable, and can only be avoided by formal rules or international governance. Conversely, a hot war can be prevented in no small part by using lawfare to engage in the contemporary war in space using the tools of, and the abundant resources found in, the experience of attorneys and litigators in particular to supplement and support diplomats to extend the velvet glove when applicable, and bare knuckles when necessary. If the August 14 statement in Geneva is any indicator, the United States may have just done that and begun the shift from light-touch diplomacy to bringing its legal warriors to bear in full-contact lawfare to engage and win the current war in outer space and help deter a more serious hot war from occurring without sacrificing the superiority it possesses in outer space.

**The PPWT prohibits space-based missile defense**

Jack M. **Beard 16**, Associate Professor of Law at the University of Nebraska College of Law, Feb 15 2016, "Soft Law ’s Failure on the Horizon: The International Code of Conduct for Outer Space Activities", University of Pennsylvania Journal of International Law, Vol. 38, No. 2, 2016, https://digitalcommons.unl.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1086&context=spacelaw

B. Avoid Arms Control Traps in Space Any successful effort to achieve legally binding restrictions on military activities or weapons in space must focus on specific, definable, and limited objectives or run afoul of issues that have historically ensured deadlock among suspicious and insecure adversaries.306 Some seemingly desirable goals, however, are likely to ensure failure. The first such problematic goal involves attempting to use arms control agreements or other instruments to comprehensively ensure peace in space. Unfortunately, the integration of modern military systems on earth, sea, air and space guarantees that at some point states seeking to disrupt or deny the ability of an adversary (such as the United States) to project power will find space capabilities to be a particularly appealing target, especially in the early stages of a crisis or conflict.307 The presence of so many things of military value in space thus makes actions by an adversary to neutralize, disrupt or destroy these things likely during a major conflict on earth.308 The second problematic arms control goal in space that seems certain to ensure stalemate involves attempting to define and prohibit military technologies with a view to broadly prevent the weaponization of space. Clearly defining a space weapon for purposes of any legally binding arms control agreement is a daunting task, one which is made particularly challenging by the “essentially military nature of space technology.”309 As noted, space technologies are routinely viewed as dual-use in nature, meaning that they can be readily employed for both civilian and military uses. Determining the ultimate purpose of many space technologies may thus depend on discerning the intentions of states, a process perhaps better suited for psychological than legal evaluation. 310 Further complicating the classification of space military technologies is the inherent difficulty in distinguishing most space weapons on the basis of their offensive and defensive roles or even their specific missions.311 For example, this problem lies at the heart of debates over the status and future of ballistic missile defense (BMD) programs, since the technology underlying BMD systems and offensive ASAT weapons is often indistinguishable.312 Vague and broad soft law instruments do not resolve this problem, but create instead their own confusion and insecurity. Vague and broad provisions in legally binding agreements that do not or cannot distinguish between these missions are similarly problematic. These issues, particularly difficulties in distinguishing ASAT and BMD systems, have figured prominently in complicating negotiations on space weapons over previous decades.313 Similarly, these concerns were a significant factor in initial U.S. opposition to the arms control measure proposed by China and Russia (the PPWT) since it prohibits states from placing any type of weapon in outer space (regardless of its military mission), thus effectively prohibiting the deployment of ballistic missile defense systems. 314 Furthermore, even if clear legal restrictions could be developed, verifying compliance with respect to technology in orbit around Earth would be very difficult (a point conceded even by China with respect to its own proposed PPWT).315

#### Causes rogue state missile threats---that escalates

Patrick M. **Shanahan 19**, Acting Secretary of Defense from January to June 2019, previously vice president and general manager of Boeing Missile Defense Systems, Jan 2019, "2019 MISSILE DEFENSE REVIEW", US Department of Defense, https://media.defense.gov/2019/Jan/17/2002080666/-1/-1/1/2019-MISSILE-DEFENSE-REVIEW.PDF

U.S. Homeland Missile Defense will Stay Ahead of Rogue States’ Missile Threats Technology trends point to the possibility of increasing rogue state missile threats to the U.S. homeland. Vulnerability to rogue state missile threats would endanger the American people and infrastructure, undermine the U.S. diplomatic position of strength, and could lead potential adversaries to mistakenly perceive the United States as susceptible to coercive escalation threats intended to preclude U.S. resolve to resist aggression abroad. Such misperceptions risk undermining our deterrence posture and messaging, and could lead adversaries to dangerous miscalculations regarding our commitment and resolve. It is therefore imperative that U.S. missile defense capabilities provide effective protection against rogue state missile threats to the homeland now and into the future. The United States is technically capable of doing so and has adopted an active missile defense force-sizing measure for protection of the homeland. DoD will develop, acquire, and maintain the U.S. homeland missile defense capabilities necessary to effectively protect against possible missile attacks on the homeland posed by the long-range missile arsenals of rogue states, defined today as North Korea and Iran, and to support the other missile defense roles identified in this MDR. This force-sizing measure for active U.S. missile defense is fully consistent with the 2018 NPR, and in order to keep pace with the threat, DoD will utilize existing defense systems and an increasing mix of advanced technologies, such as kinetic or directed-energy boost-phase defenses, and other advanced systems. It is technically challenging but feasible over time, affordable, and a strategic imperative. It will require the examination and possible fielding of advanced technologies to provide greater efficiencies for U.S. active missile defense capabilities, including space-based sensors and boost-phase defense capabilities. Further, because the related requirements will evolve as the long-range threat posed by rogue states evolves, it does not allow a static U.S. homeland defense architecture. Rather, it calls for a missile defense architecture that can adapt to emerging and unanticipated threats, including by adding capacity and the capability to surge missile defense as necessary in times of crisis or conflict. In coming years, rogue state missile threats to the U.S. homeland will likely expand in numbers and complexity. There are and will remain inherent uncertainties regarding the potential pace and scope of that expansion. Consequently, the United States will not accept any limitation or constraint on the development or deployment of missile defense capabilities needed to protect the homeland against rogue missile threats. Accepting limits now could constrain or preclude missile defense technologies and options necessary in the future to effectively protect the American people. As U.S. active defenses for the homeland continue to improve to stay ahead of rogue states’ missile threats, they could also provide a measure of protection against accidental or unauthorized missile launches. This defensive capability could be significant in the event of destabilizing domestic developments in any potential adversary armed with strategic weapons, and as long-range missile capabilities proliferate in coming years. U.S. missile defense capabilities will be sized to provide continuing effective protection of the U.S. homeland against rogue states’ offensive missile threats. The United States relies on nuclear deterrence to address the large and more sophisticated Russian and Chinese intercontinental ballistic missile capabilities, as well as to deter attacks from any source consistent with long-standing U.S. declaratory policy as re-affirmed in the 2018 NPR.

## 4

**Counterplan: The States ought to engage in a prior and binding consultation with the International Court of Justice over treating outer space as a global commons**

**Normal means isn’t a consult but consultations key to clarify international space law**

**Simpson and Johnson 17** [Michael Simpson, International Space University · Space Policy and Law; Business and Management, Chris Johnson is the Space Law Advisor at the Secure World Foundation, a non-governmental organization (NGO) focused on the sustainable uses of outer space. Christopher does research, writes, and speaks about international and national space law with a special focus on peaceful uses of outer space, emerging governance challenges with non-traditional space activities, and identifying and characterizing deficiencies in existing space law., September 2017, Lacunae and Silence in International Space Law – A Hypothetical Advisory Opinion from the International Court of Justice, ResearchGate, https://www.researchgate.net/publication/320596144\_Lacunae\_and\_Silence\_in\_International\_Space\_Law\_-\_A\_Hypothetical\_Advisory\_Opinion\_from\_the\_International\_Court\_of\_Justice 12-16-2021] rohan

Since international space law has developed for at least 60 years in an environment devoid of judicial opinions on live controversies, it lacks the judicial contribution to clarification and elaboration of terms and principles normally enjoyed by a body of law. For this reason, advisory opinions may be particularly useful in this area. The mechanism for seizing the Court also appears to be favorably developed. In the nuclear weapons case, the ICJ turned down a 1993 request from the World Meteorological Organization on the grounds that WMO, acting ultra vires lacked standing. Only when the UN General Assembly later made the request in its own name did the Court take up the question. Since many of the questions amenable to illumination through advisory opinions are within the remit of the UN Committee for the Peaceful Uses of Outer Space (UNCOPUOS), which itself reports through Fourth Committee to the General Assembly, the procedural pathway to a UNGA request is both established and clear. Equally as helpful is that UNCOPUOS operates by consensus. Thus, early requests for clarification, could easily establish that the necessary political will to seek increased clarity was present and permit to begin with less controversial concepts. Once the efficacy of advisory opinions to clarify elements of space law is established, the General Assembly could possibly decide to forward more challenging issues even where consensus in COPUOS could not be expected. III. NON-LIQUET AT THE ICJ. It is a general principle of law at both the national and international level (indeed inherited from ancient Roman law) that when asked to deliver a judgement, a court knows the law (Iura novit curia). So it should seem as an unexpected and rare surprise when a court does not, indeed, know the law. In the Nuclear Weapons advisory opinion, the Court considered the existing law applicable to the threat or use of nuclear weapons, and their treatment under the various sources and bodies of law. The Court was asked to consider “is the threat or use of nuclear weapons in any circumstances permitted under international law?” However, the Court slightly rephrased that question merely to “determine the legality or illegality of the threat or use of nuclear weapons.”11 In seeking an answer, the Court looked to custom and to treaties, and looking to a diverse field of special regimes of international law, including the law of armed conflict (LOAC) a.k.a. International Humanitarian Law (IHL) (including jus ad bellum and jus in bellow), environmental law, and human rights law. However, the law, as a system and as a whole, was weighed and found wanting. The Court concluded: 11 20 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports (1996) p. 226, 238 para. 97. Accordingly, in view of the present state of international law viewed as a whole, as examined above by the Court, and of the elements of fact at its disposal, the Court is led to observe that it cannot reach a definitive conclusion as to the legality or illegality of the use of nuclear weapons by a State in such circumstance of self-defense, in which its very survival would be at stake. Non liquet, meaning, it is not clear, is where a court finds the law insufficient, and does not permit a conclusion one way or the other regarding the issue it is presented with. 12 IV. SPACE LAW, LACUNAE, AND NON-LIQUET The idea that gaps in the law or uncertainty with its provisions can render judicial decisions impossible, difficult, or unwise is at least as old as Roman law. As such the concepts of lacunae and non liquet still bear the Latin names that would have been familiar to lawyers and legal scholars throughout the Roman Empire. As explained by Mark Bogdansky, non liquet can be extended to cover both the case where no legal rule can be found that applies to a case under consideration and to the case where lack of clarity in the facts or in a principle of law makes it impossible to discern clearly the implications of that principle in light of the facts presented. Bogdansky refers to the former situation as ontological non liquet and to the latter as epistemological. We will use lacunae to refer to apparent gaps in international space law and will confine our use of “non liquet” to situations where a principle has been articulated but is not clear. Definitions become extremely important in discussing the impact of lacunae and non liquet on international space law. Note for example the list of lacunae in José Monserrat Filho’s excellent paper, “Space Law In The Light Of Bobbio's Theory Of Legal Ordering,” IAC-12.E7. 5. 6. 1. Definition of “space object”, “space debris”, “space activities”, “space launching”; 2. Binding “Space Debris Mitigation Guidelines”; 3. Prohibition of all kind of weapons in Earth orbits; 4. Definition and delimitation of the outer space; 5. Regulation of commercialization of space activities; 6. Environmental damage in Liability Convention; 7. Industrial exploitation of lunar natural resources; 8. Remote sensing activities in the XXI century; 9. Satellite data as evidence in criminal proceedings; 10. The use of nuclear power sources in space; 11. The human presence in space. 12 While items 2, 3, 6, and 11 fit clearly into our definition of lacunae, the others represent cases where legal principles have been articulated, but are subject to substantial disagreement as to their application to various fact situations. Where lacunae exist, the utility of advisory opinions is greatly constrained. The foundational principles of positivism and sovereignty that are key pillars of international law do not lend themselves to judicial activism in creating legal rules in the absence of political action to create them. On the other hand, where a situation of non liquet emerges from disagreement over definitions or the application of a legal principle to a particular situation, an advisory opinion could have either one of two beneficial outcomes. In the first case an advisory opinion could clarify the meaning of terms where uncertainty exists. This situation would require strong arguments to support the opinion and justify it. It might be elaborated on the basis of original intent reflected in the travaux préparatoires, clear patterns of application of terms and principles in the action of States parties to the agreements where uncertainty exists or lack of clarity is perceived, or lucid reasoning by analogy to similar situations where greater certainty can be demonstrated. The second case could result from an opinion that clarification cannot be provided and that the matter remains non liquet. In this case, there would be an unambiguous signal that political/ diplomatic action would be required to clarify the issues in dispute. Take for example the hypothetical example of a case seeking clarification of the non-appropriation clause of the Outer Space Treaty. A non liquet in such a case would leave those wishing to assert that a prohibition against off Earth mining existed in international law without a legal vindication of their position while those wishing to engage in such mining would face uncertainty because the Court had not ruled definitively that non appropriation did not apply to them. Since the mining advocates would be ~~handicapped~~ by uncertainty in their approaches to potential investors, both sides would have an incentive to seek a political resolution with the compromises that was likely to entail.

**Solves space conflict and circumvention**

**Hart 21** [Amalyah Hart, Amalyah Hart is a science journalist based in Melbourne, 11-19-2021, "Do we need new space law to prevent space war", Cosmos Magazine, https://cosmosmagazine.com/people/society/space-law-to-prevent-space-war/] simha

The week before last, a UN panel approved the creation of a working group to discuss next-generation laws to prevent the militarisation of space. The move comes as space 2.0 seems to be going into hyper-drive, with countries and corporations racing to claim their stake in the final frontier. It’s timely, as the potential for friction is gathering by the day, with China, India, Russia and the US testing anti-satellite missiles on their own satellites and creating worrisome clouds of debris. This week’s destruction by Russia of its “dead” satellite, Cosmos 1408, underlined the issue. Meanwhile, the orbital space around Earth is becoming jammed with machinery; currently, there are 3,372 active satellites whizzing around Earth, but in one or two decades that number is set to leap to potentially 100,000 or more. And that’s ignoring the space stations, telescopes and spyware already in orbit as countries flex their aerospace muscles. It’s a cosmic fracas. And contested territory is prime fodder for international disputes, as we know. It’s these kinds of disputes the group of UK diplomats who proposed the UN motion want to prevent, by coming to an agreed-upon set of norms for behaviour in space. Space law: what are the issues at stake? The current international framework for law in space is the UN’s 1967 Outer Space Treaty (OST), which sets governing principles for the exploration of space, including that space should be free for use by all nations, that celestial bodies like the Moon should be used exclusively for peaceful purposes, and that outer space should not be subject to national appropriation. Under international law, any and all objects being launched into space must be registered to avoid collisions. On top of these global laws, each nation-state has its own legal framework around the registering and launching of objects into space. But as technology evolves and new opportunities arise, are these old laws equipped to govern new problems? The UN’s 1967 Outer Space Treaty sets governing principles for the exploration of space, including that space should be free for use by all nations. “There exists an incredible amount of applicable law already, and it has served us really well,” says space law expert Steven Freeland, an emeritus professor at Western Sydney University and professorial fellow at Bond University. Freeland is vice-chair of a UN Committee on the Peaceful Uses of Outer Space (COPUOS) working group that is developing laws around the exploitation of resources in space. “There’s a lot of law at the multilateral level that then filters down to other layers of bilateral or ‘minilateral’ agreements and national laws. But clearly things move so quickly with technology, we’re doing so many more things in space that were beyond the contemplation of the drafters of the original treaties. Ideally we need more.” Freeland says there are myriad complex, interconnected issues in space that need tighter laws. These include the increasing militarisation of space; the proliferation of satellites, which can lead to overcrowding of “popular” orbits and increased demand for radio-wave spectra; ethical issues around human spaceflight; and the possible extraction of resources on celestial bodies like the Moon. Resource exploitation It might sound like science fiction, but mining in outer space is looking increasingly likely in the not-too-distant future. In September 2020, NASA announced that it would award contracts to private companies for the extraction and purchase of lunar regolith (rock matter) from the surface of the Moon, which could be mined and then studied in situ by the company, before the data and rights are transferred to the space agency. The move heralds what our space-based future might look like, with private companies mining celestial bodies for their precious resources. In our solar system, composed of millions of celestial bodies both large and small, the opportunities for cashing in look potentially endless – provided technology advances to the level of practical spaceflight. “Most wars on Earth have historically been fought over a quest for resources,” says Freeland, “so it’s incredibly important [to have appropriate space laws].” Just last month, scientists announced the discovery of two extraordinarily metal-rich near-Earth asteroids (NEAs), comprised of roughly 85% metals like iron, nickel and cobalt, which are thought to exceed Earth’s entire known metallic reserves. These three highly valuable metals, often known as the “iron triad”, are particularly critical for the energy supply chain and a renewable energy future; they’re used to build lithium-ion batteries, electrochemical capacitators for storing energy, and nano-catalysts for use in the energy sector. Under the OST, outer-space resources cannot be appropriated by nations, but the law and principle around the commercial use of space resources is less clear. The 1979 Moon Treaty holds that any celestial body is under the jurisdiction of the international community and therefore subject to international law. The treaty outlaws the military use of any celestial body as well as providing a legal framing for the “responsible” exploitation of celestial resources. But, to date, no space-capable nation has ratified the treaty. Militarisation That brings us to the militarisation of space. As technology advances, the potential avenues for weapons that cross the border from terrestrial to cosmic continue to proliferate. So, what laws protect us from a space war? “The issues about security in space have historically been dealt with by the CD, the Conference of Disarmament, but more recently the UK has led discussions at the United Nations that effectively seek to change the diplomatic language and thinking about space security,” says Freeland. Currently, the principles for governing space under the OST forbid the military use of space, but space is already used for military purposes such as surveillance, and some missiles carve a path through outer space on their journeys to their targets. As it currently stands, the only weapons found in space are the TP-82 Cosmonaut survival pistols that Russian astronauts regularly take on board the Soyuz spacecraft, intended to protect them from a potential wild animal attack if they are forced to emergency land in “off-the-map” territory. But as technology proliferates, the opportunities for space-based militarisation also grow. The existing laws were drafted long before many of these technologies were even dreamed up. The most worrisome technologies currently being trialled are anti-satellite missiles. “We have this strategic competition going on amongst the major powers,” says Gilles Doucet, a space security consultant based in Canada who worked for 35 years with the Canadian Department of National Defence. Doucet is both an engineer and an expert in space law. “They all wish to be dominant and make sure that their national security is secured by controlling, or at least not having other people control, outer space.” But what kinds of defence technologies are being developed in space? Doucet says the most worrisome technologies currently being trialled are anti-satellite missiles of the sort that Russia deployed earlier this week. Known as direct-ascent anti-satellite missiles (DA-ASAT), they can destroy satellites in low Earth orbit. “This essentially looks a lot like ballistic missile defence, but it’s happening in outer space against satellites,” he says. In fact, DA-ASAT technology is dependent on the same technology used for midcourse ballistic missile defence – the technology that the US, for example, deploys to defend itself from potential ballistic missile attacks on North America. These missiles fly at altitudes of around 3,000 to 4,000 kilometres, well within the low-Earth orbit many satellites operate in. This technology is being developed and tested by the US, China, India and Russia. “Destroying another country’s satellites would only occur in an armed conflict scenario,” Doucet says. “It would be because the other country’s satellite is providing an important military role – for example, a GPS satellite for directing munitions or an imagery satellite for locating your forces.” Other military applications in space, Doucet says, include the jamming of satellite communications and navigation, as well as interference with some GNSS signals, of which GPS – the satellite navigation system we all use for things like Google Maps – is one. Satellite jamming can have major disruptive potential. “You might be conducting an operation in a conflict – let’s say you wish to target a certain facility. Your missile system or your drone-launching missiles rely on GPS to guide them,” Doucet says. “So if you’re on the other end of it wanting to protect yourself, then you’ll send out jamming signals.” But while these signals can help defend a military target, Doucet says many satellites provide services for military and civilian companies and organisations at once. In this case, jamming a satellite’s signal may also interfere with civilian services it provides, including aircraft and ship navigation, car mapping, even timing signals for financial transactions. This means satellite jamming has major disruptive potential. And there are other areas where satellite technology could have duplicitous or combative potential. “Close proximity operations seem to get countries a bit upset,” says Doucet. Close proximity operations, as the name suggests, involve satellites moving close to other satellites. “One reason might be intelligence or inspection, just to take close images to understand how it’s built. But you may be getting close to intercept signals or to interfere with signals. “So that is a concern, because it’s one thing to get close for passively collecting information, but if you’re close you may also be in a position to interfere.” What might new space law systems look like? “We have a lot of space systems that are dual use, that have the potential to do harm,” Doucet says. “I’d like to see some transparency on the mission, on what you’re doing, to help alleviate concerns. “That might sound like a small step, but to militaries it’s actually a really big step to provide transparency.” Doucet says he’d also like to see clarification of the existing principles for space law already set out in the OST and other treaties. In fact, he’s currently working on the MILAMOS Project, developing a Manual on International Law Applicable to Military Uses of Outer Space at Canada’s McGill University. “I would like to see the existing legal regime being given a bit of life,” he says. “We’ve got tremendously good outer space principles, but over several decades countries have kind of refused to give them life because it’s too controversial. “The third thing I’d like to see is the major space powers sit down and talk. They’re all potentially losers if this keeps going down this path. I don’t think there’s a winner in a space war.” For all these complex problems, Doucet is cautiously optimistic about our chances of avoiding a space war. “I don’t think the issue about space security is as unique as people think,” he says. “Yes, it’s a very unique domain, but the actors are all the same, the interests are all the same. It’s the same people that have struggled over ballistic missile proliferation, nuclear weapons proliferation, treaties about the high seas, about aviation and all kinds of things. “So, we shouldn’t think this is an unsolvable problem. We may take lessons from how we’ve managed to agree to disagree in other areas beyond national jurisdiction.” Freeland agrees that even if international tensions may simmer at home, it’s in the best interest of major global powers to come to agreements about laws in space. “When it comes to these really big issues, particularly issues that have the propensity to go horribly wrong if we follow an irresponsible path, in the end it’s in [governments’] common interest to agree to the rules of the road,” he says. “The important element is that they have had the opportunity to buy in on the framing of those rules.“I think we need to be optimistic. With a great deal of caution, cool heads will prevail.”

**They say yes**

Ram **Jakhu 2005** Legal Issues Relating to the Global Public Interest in Outer Space <https://spp.umd.edu/sites/default/files/2019-08/jakhu.pdf> //SR

The Outer Space Treaty, in its Article I, Paragraph 1, declares that, “The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development.” Through the strong and well articulated proposal of Brazil, this ‘common interest’ principle was included in the operative part of the Treaty rather than only in its Preamble. The Brazilian proposal ensured the recognition of outer space and the celestial bodies as a ‘global commons,’ a ‘public good,’ and placed inclusive interests of the international community over possible exclusive claims by individual States. The most important implication of this provision is that it initiated the principle of global public interest in outer space, thereby establishing that the interests, both present and future, of all States must be taken into consideration in the exploration and use of outer space. Acceptance of the above-mentioned Brazilian proposal by all member States of the COPUOS, particularly the United States and the Soviet Union, was a prerequisite for compromise on other parts of the draft Outer Space Treaty and its final adoption by the UN General Assembly. After the completion of the draft treaty in the COPUOS, the U.S. delegate stressed that the “spirit of compromise shown by the space Powers and the other Powers had produced a treaty which established a fair balance between the interests and obligations of all concerned, including the countries which had as yet undertaken no space activities.”13 Similarly, the Soviet delegate stated that Article I, Paragraph 1, was not “a mere statement of the rights of States” but was designed “to guarantee that the interests, not only of individual States, but of all countries and of the international community as a whole, would be protected.”14 In this context, it is important to keep in mind that though normally a State Party to a Treaty is obliged to respect the corresponding rights of other States Parties to that Treaty, the International Court of Justice has recently accorded recognition to the obligations under certain Treaties that are of fundamental and broad nature — and the Outer Space Treaty is certainly one of them — that are incumbent upon States towards the international community as a whole (‘obligations erga omnes’).15 The ‘common interest’ in outer space is reinforced by other principles of international space law, including the ‘freedom of outer space’ and ‘non-appropriation of outer space.’16

## 5

**CP: Outer space ought to be treated as a global commons except in the instance of space elevators**

**Space Elevators constitute Appropriation – they impede orbits.**

**Matignon 19** Louis de Gouyon Matignon 3-3-2019 "LEGAL ASPECTS OF THE SPACE ELEVATOR TRANSPORTATION SYSTEM"<https://www.spacelegalissues.com/space-law-legal-aspects-of-the-space-elevator-transportation-system/> [PhD in space law (co-supervised by both Philippe Delebecque, from Université Paris 1 Panthéon-Sorbonne, France, and Christopher D. Johnson, from Georgetown University || regularly write articles on the website Space Legal Issues so as to popularise space law and public international law]//Elmer

An Earth-based space elevator would consist of a cable with one end attached to the surface near the equator and the other end in space beyond geostationary orbit. An orbit is the curved path through which objects in space move around a planet or a star. The 1967 Treaty’s regime and customary law enshrine the principle of non-appropriation and freedom of access to orbital positions. Space Law and International Telecommunication Laws combined to protect this use against any interference. The majority of space-launched objects are satellites that are launched in Earth’s orbit (a very small part of space objects – scientific objects for space exploration – are launched into outer space beyond terrestrial orbits). It is important to precise that an orbit does not exist: satellites describe orbits by obeying the general laws of universal attraction. Depending on the launching techniques and parameters, the orbital trajectory of a satellite may vary. Sun-synchronous satellites fly over a given location constantly at the same time in local civil time: they are used for remote sensing, meteorology or the study of the atmosphere. Geostationary satellites are placed in a very high orbit; they give an impression of immobility because they remain permanently at the same vertical point of a terrestrial point (they are mainly used for telecommunications and television broadcasting). A geocentric orbit or Earth orbit involves any object orbiting Planet Earth, such as the Moon or artificial satellites. Geocentric (having the Earth as its centre) orbits are organised as follow: 1) Low Earth orbit (LEO): geocentric orbits with altitudes (the height of an object above the average surface of the Earth’s oceans) from 100 to 2 000 kilometres. Satellites in LEO have a small momentary field of view, only able to observe and communicate with a fraction of the Earth at a time, meaning a network or constellation of satellites is required in order to provide continuous coverage. Satellites in lower regions of LEO also suffer from fast orbital decay (in orbital mechanics, decay is a gradual decrease of the distance between two orbiting bodies at their closest approach, the periapsis, over many orbital periods), requiring either periodic reboosting to maintain a stable orbit, or launching replacement satellites when old ones re-enter. 2) Medium Earth orbit (MEO), also known as an intermediate circular orbit: geocentric orbits ranging in altitude from 2 000 kilometres to just below geosynchronous orbit at 35 786 kilometres. The most common use for satellites in this region is for navigation, communication, and geodetic/space environment science. The most common altitude is approximately 20 000 kilometres which yields an orbital period of twelve hours. 3) Geosynchronous orbit (GSO) and geostationary orbit (GEO) are orbits around Earth at an altitude of 35 786 kilometres matching Earth’s sidereal rotation period. All geosynchronous and geostationary orbits have a semi-major axis of 42 164 kilometres. A geostationary orbit stays exactly above the equator, whereas a geosynchronous orbit may swing north and south to cover more of the Earth’s surface. Communications satellites and weather satellites are often placed in geostationary orbits, so that the satellite antennae (located on Earth) that communicate with them do not have to rotate to track them, but can be pointed permanently at the position in the sky where the satellites are located. 4) High Earth orbit: geocentric orbits above the altitude of 35 786 kilometres. The competing forces of gravity, which is stronger at the lower end, and the outward/upward centrifugal force, which is stronger at the upper end, would result in the cable being held up, under tension, and stationary over a single position on Earth. With the tether deployed, climbers could repeatedly climb the tether to space by mechanical means, releasing their cargo to orbit. Climbers could also descend the tether to return cargo to the surface from orbit.

**Private Companies are pursuing Space Elevators AND property rights uniquely key**

**Alfano 15** Andrea Alfano 8-18-2015 “All Of These Companies Are Working On A Space Elevator”<https://www.techtimes.com/articles/77612/20150818/companies-working-space-elevator.htm> (Writer at the Tech Times)//Elmer

Space elevators are solid proof that any mundane object sounds way cooler if you stick the word "space" in front of it. But there's much more than coolness at stake when building a space elevator – this technology has the potential to revolutionize space transportation, and the Canadian private space company Thoth Technology that was recently awarded a patent for its space elevator design isn't the only company in the game. One of the other major players is a U.S.-based company called LiftPort Group, founded by space entrepreneur Michael Laine in 2003. Its plan for a space elevator is vastly different from the one for which Thoth received a patent, however. Whereas Thoth's plans entail tethering a 12-mile-high inflatable space elevator to the Earth, LiftPort is shooting for the moon. Originally, LiftPort had planned to build an Earth elevator, too, but it abandoned the idea in 2007 in favor of building a lunar elevator. The basic design for a lunar elevator is an anchor in the moon that is attached to a cable that extends to a space station situated at a very special point. Known as a Lagrange Point, this is the gravitational tipping point between the Earth and the moon, where their gravitational pulls essentially cancel one another out. A robot could then travel up and down the tether, ferrying cargo between the moon and the station. Out farther in space, a counterweight would balance out the system. Both types of space elevator are intended to increase space access, but in very different ways. Thoth's Earth elevator aims to make launches easier by starting off 12 miles above the Earth's surface. LiftPort's space elevator aims to increase access to the moon in particular, because it is much easier to launch a rocket to the Lagrange Point and dock it at a space station than it is to get to the moon directly. There's a third major company based in Japan called Obayashi Corp. whose plans look like a hybrid of Thoth's and LiftPort's. Obayashi is not a space company, however – it's actually a construction company. Like Thoth, Obayashi plans to build an Earth elevator. But its Earth elevator would consist of a cable tethered to the blue planet, a robotic cargo-carrier, a space station, and a counterweight. It essentially looks like LiftPort's plans, but stuck to the Earth instead of to the moon.

**Yes Space Elevators – NASA confirms.**

**Snowden 18** Scott Snowden 10-2-2018 "A colossal elevator to space could be going up sooner than you ever imagined"<https://www.nbcnews.com/mach/science/colossal-elevator-space-could-be-going-sooner-you-ever-imagined-ncna915421> (Scott has written about science and technology for 20 years for publications around the world. He covers environmental technology for Forbes.)//Elmer

For more than half a century, rockets have been the only way to go to space. But in the not-too-distant future, we may have another option for sending up people and payloads: a colossal elevator extending from Earth’s surface up to an altitude of 22,000 miles, where geosynchronous satellites orbit. NASA says the basic concept of a space elevator is sound, and researchers around the world are optimistic that one can be built. The Obayashi Corp., a global construction firm based in Tokyo, has said it will build one by 2050, and China wants to build one as soon as 2045. Now an experiment to be conducted soon aboard the International Space Station will help determine the real-world feasibility of a space elevator. “The space elevator is the Holy Grail of space exploration,” says Michio Kaku, a professor of physics at City College of New York and a noted futurist. “Imagine pushing the ‘up’ button of an elevator and taking a ride into the heavens. It could open up space to the average person.”

**Regardless of completion, Elevators spur investment in Nanotechnology**

Liam **O’Brien 16**. University of Wollongong. 07/2016. “Nanotechnology in Space.” Young Scientists Journal; Canterbury, no. 19, p. 22.

Nanotechnology is at the forefront of scientific development, continuing to astound and innovate. Likewise, the space industry is rapidly increasing in sophistication and competition, with companies such as SpaceX, Blue Origin and Virgin Galactic becoming increasingly prevalent in what could become a new commercial space race. The various space programs over the past 60 years have led to a multitude of beneficial impacts for everyday society. Nanotechnology, through research and development in space has the potential to do the same. Potential applications of nanotechnology in space are numerous, many of them have the potential to capture and inspire generations to come. One of these applications is the space elevator. By using carbon nanotubes, a super light yet strong material, this concept would be an actual physical structure from the surface of the Earth to an altitude of approximately 36 000 km. The tallest building in the world would fit into this elevator over 42 000 times. The counterweight, used to keep the elevator taught, is proposed to be an asteroid. This would need to be at a distance of 100 000 km, a quarter of the distance to the moon. The benefits of such a structure would be enormous. 95% of a space shuttle's weight at take-off is fuel, costing US$ 20 000 per kilogram to send something into space. However, with a space elevator the cost per kilogram can be reduced to as little as US$ 200. Exploration to other planets can begin at the tower, and travel to and from the moon could become as simple as a morning commute to work. Solar sails provide the means to travel large distances and incredible speeds. Much like sails on a boat use wind, the solar sail uses light as a source of propulsion. Ideally these sails would be kilometres in length and only a few micrometres in thickness. This provides us with the ability to travel at speeds previously unheard of. Using carbon nanotubes once again, a solar sail has the capability to travel at 39 756 km/s which is 13% of the speed of light! This sail could reach Pluto in an astonishing 1.7 days, and Alpha Centauri in just 32 years. Space travel to other planets, other stars, could be possible with solar sails. The Planetary Society is funding for a space sail of itself, and has successfully launched one into orbit. NASA has also sent a sail into orbit, allowing it to burn up in the atmosphere after 240 days. Investing time and resources into nanotechnology for space exploration has benefits for society today. Materials such as graphene are being used in modern manufacturing at an increasing rate as the applications become utilised. Carbon nanotubes will change the way we think about materials and their strength. These nanotubes have a tensile strength one hundred times that of steel, yet are only a sixth of the weight. Imagine light weight vehicles using less petrol and energy as well as being just as strong as regular vehicles. With potentials to revolutionize the way we think about space travel, nanotechnology has a bright future. As a new field of science, it has the capability to push the human race to the outer reaches of our galaxy and hopefully one day to other stars. It will inspire generations of explorers and dreamers to challenge themselves and advance the human race into the next era. As Richard Feynman said in his 1959 talk 'There's Plenty of Room at the Bottom' "A field in which little has been done, but in which an enormous amount can be done. There is still plenty more to achieve.

**Nano tech solves warming**

Bhavya **Khullar**. September 4, 20**17**. Nanomaterials Could Combat Climate Change and Reduce Pollution. https://www.scientificamerican.com/article/nanomaterials-could-combat-climate-change-and-reduce-pollution/

The list of environmental problems that the world faces may be huge, but some strategies for solving them are remarkably small. First explored for applications in microscopy and computing, nanomaterials—materials made up of units that are each thousands of times smaller than the thickness of a human hair—are emerging as useful for tackling threats to our planet’s well-being. Scientists across the globe are developing nanomaterials that can efficiently use carbon dioxide from the air, capture toxic pollutants from water and degrade solid waste into useful products. “Nanomaterials could help us mitigate pollution. They are efficient catalysts and mostly recyclable. Now, they have to become economical for commercialization and better to replace present-day technologies completely,” says [Arun Chattopadhyay](http://www.iitg.ac.in/arun/), a member of the chemistry faculty at the Center for Nanotechnology, Indian Institute of Technology Guwahati. To help slow the climate-changing rise in atmospheric CO2levels, researchers have developed nanoCO2 harvesters that can suck atmospheric carbon dioxide and deploy it for industrial purposes. “Nanomaterials can convert carbon dioxide into useful products like alcohol. The materials could be simple chemical catalysts or photochemical in nature that work in the presence of sunlight,” says Chattopadhyay, who has been working with nanomaterials to tackle environmental pollutants for more than a decade. Many research groups are working to address a problem that, if solved, could be a holy grail in combating climate change: how to pull CO2 out of the atmosphere and convert it into useful products. Chattopadhyay isn’t alone. Many research groups are working to address a problem that, if solved, could be a holy grail in combating climate change: how to pull CO2 out of the atmosphere and convert it into useful products. Nanoparticles offer a promising approach to this because they have a large surface-area-to-volume ratio for interacting with CO2 and properties that allow them to facilitate the conversion of CO2into other things. The challenge is to make them economically viable. Researchers have tried everything from metallic to carbon-based nanoparticles to reduce the cost, but so far they haven’t become efficient enough for industrial-scale application. One of the most recent points of progress in this area is work by scientists at the CSIR-Indian Institute of Petroleum and the Lille University of Science and Technology in France. The researchers developed a nanoCO2 harvester that uses water and sunlight to convert atmospheric CO2 into methanol, which can be employed as an engine fuel, a solvent, an antifreeze agent and a diluent of ethanol. Made by wrapping a layer of modified graphene oxide around spheres of copper zinc oxide and magnetite, the material looks like a miniature golf ball, captures CO2 more efficiently than conventional catalysts and can be readily reused, according to Suman Jain, senior scientist of the Indian Institute of Petroleum, Dehradun in India, who developed the nanoCO2harvester. Jain says that the nanoCO2 harvester has a large molecular surface area and captures more CO2 than a conventional catalyst with similar surface area would, which makes the conversion more efficient. But due to their small size, the nanoparticles have a tendency to clump up, making them inactive with prolonged use. Jain adds that synthesizing useful nanoparticle-based materials is also challenging because it’s hard to make the particles a consistent size. Chattopadhyay says the efficiency of such materials can be improved further, providing hope for useful application in the future. CLEANSING WATER Most toxic dyes used in textile and leather industries can be captured with nanoparticles. “Water pollutants such as dyes from human-created waste like those from tanneries could get to natural sources of water like deep tube wells or groundwater if wastewater from these industries is left untreated,” says Chattopadhyay. “This problem is rather difficult to solve.” An international group of researchers led by professor Elzbieta Megiel of the University of Warsaw in Poland reports that nanomaterials have been widely studied for removing heavy metals and dyes from wastewater. According to the research team, adsorption processes using materials containing magnetic nanoparticles are highly effective and can be easily performed because such nanoparticles have a large number of sites on their surface that can capture pollutants and don’t readily degrade in water. Chattopadhyay adds that appropriately designed magnetic nanomaterials can be used to separate pollutants such as arsenic, lead, chromium and mercury from water. However, the nanotech-based approach has to be more efficient than conventional water purification technology to make it worthwhile. In addition to removing dyes and metals, nanomaterials can also be used to clean up oil spills. Researchers led by Pulickel Ajayan at Rice University in Houston, Texas, have developed a reusable nanosponge that can remove oil from contaminated seawater.

**Warming causes extinction**

**Schultz 16** (Robert Schultz [Retired Professor and Chair of Computer Information Systems at Woodbury University] “Modern Technology and Human Extinction,” <http://proceedings.informingscience.org/InSITE2016/InSITE16p131-145Schultz2307.pdf>) RW

There is consensus that there is a relatively short window to reduce carbon emissions before drastic effects occur. Recent credible projections of the result of lack of rapid drastic action is an average temperature increase of about 10o F by 2050. This change alone will be incredibly disruptive to all life, but will also cause great weather and climate change. For comparison purposes, a 10 degree (Fahrenheit) decrease was enough to cause an ice layer 4000 feet thick over Wisconsin (Co2gether, 2012). Recently relevant information has surfaced about a massive previous extinction. This is the Permian extinction, which happened 252 million years ago, during which 95% of all species on earth, both terrestrial and aquatic, vanished. The ocean temperature after almost all life had disappeared was 15 degrees (Fahrenheit) above current ocean temperatures. Recent information about the Permian extinction indicates it was caused by a rapid increase in land and ocean temperatures, caused by the sudden appearance of stupendous amounts of carbon in the form of greenhouse gases (Kolbert, 2014, pp. 102-144). The origin of the carbon in these enormous quantities is not yet known, but one possibility is the sudden release of methane gases stored in permafrost. This is also a possibility in our current situation. If so, extinction would be a natural side effect of human processes. There is also a real but smaller possibility of what is called “runaway greenhouse,” in which the earth’s temperature becomes like Venus’ surface temperature of 800o The threat of extinction here is not entirely sudden. The threat is, if anything, worse. Changes in the atmosphere--mainly increases in the concentration of greenhouse gases in the atmosphere-- can start processes that can’t be reversed but which take long periods of time to manifest. “Runaway greenhouse” may be the worst. Once again, suggestions of technological solutions to this situation should be treated with some skepticism. These proposals are often made by technophiles ignoring all the evidence that technology is very much subject to unanticipated side effects and unanticipated failures. What has happened concerning the depletion of the ozone layer should be a clear warning against the facile uses of technology through geoengineering to alter the makeup of the entire planet and its atmosphere. The complicating factor in assessing extinction likelihood from climate change is corporations, especially American fossil fuel corporations such as Exxon-Mobil and Shell. Through their contributions, they have been able to delay legislation ameliorating global warming and climate change. As mentioned before, recently released papers from Exxon-Mobil show that the corporation did accept the scientific findings about global warming and climate change. But they concluded that maintaining their profits was more important than acting to ameliorate climate change. Since it is not a matter of getting corporations to appreciate scientific facts, the chances of extinction from climate change are good. To ameliorate climate change, it is important to leave a high percentage of fossil fuel reserves in the ground. But this is exactly what a profit-seeking fossil fuel corporation cannot do. One can still hope that because fossil fuel corporations are made up of individuals, increasingly bad consequences of global warming and climate change will change their minds about profits. But because of the lag in effects, this mind change will probably be too late. So I conclude we will probably see something like the effects of the Permian extinction perhaps some time around 2050. (The Permian extinction was 95% extinction of all species.) This assumes the release of methane from the arctic will take place around then.