# debateLA Quarters

## T

#### Interpretation: the aff cannot specify a state.

#### Bare plurals imply a generic “rules reading” in the context of moral statements

Cohen 1 — (Ariel Cohen, Professor of Linguistics @ Ben-Gurion University of the Negev, PhD Computational Linguistics from Carnegie Mellon University, “On the Generic Use of Indefinite Singulars”. Journal of Semantics 18: 183-209, Oxford University Press, 2001, accessed 12-7-20, HKR-AM) \*\*BP = bare plurals

According to the rules and regulations view, on the other hand, generic sentences do not get their truth or falsity as a consequence of properties of individual instances. Instead, generic sentences are evaluated with regard to rules and regulations, which are basic, irreducible entities in the world. Each generic sentence denotes a rule; if the rule is in effect, in some sense (different theories suggest different characterizations of what it means for a rule to be in effect), the sentence is true,

#### That outweighs—only our evidence speaks to how bare plurals are interpreted in the context of normative statements like the resolution. This means throw out aff counter-interpretations that are purely descriptive

#### Violation—they specified China

#### Vote neg for predictable limits—specifying a type of appropriation offers a huge explosion in the topic since they get permutations of hundreds of states. Generic pics are jettisoned when the aff specifies a state that we don’t have specific ev to. Don’t let them say pics – potential neg abuse doesn’t justify preemptive aff abuse and causes me to have to rely on shiftier methods. Limits explodes neg prep burden and draws un-reciprocal lines of debate, where the aff is always ahead, turns their pragmatics offense.

#### No RVIs: a. Chills theory – If people know they might lose for reading theory, it will disincentivize them. b. You don’t get to win by being fair. c. Theory Baiting – good theory debaters will bait people into reading theory against certain cases. T link turns 1AR theory – proves the aff forced me to be abusive

#### Use competing interpretations: a. Reasonability causes a race to the bottom with testing the limit of it b. Judge intervention shouldn’t be allowed bc it produces bias c. Uniquely, use competing interps on T – you can’t be reasonably topical

#### Drop the debater: for being abusive – we can’t restart the round from the 1AC and I’m skewed for the rest of the debate.

## NC

#### The metaethic is practical reason. Prefer:

#### [1] Regress – Ethical theories must have a basis. We can always ask why we should follow the basis of a theory, so they aren’t morally binding because they don’t have a starting point. Practical reason solves – When we ask why we should follow reason, we demand a reason, which concedes to the authority of reason itself, so it’s the only thing we can follow

#### [2] Action Theory – Every action can be broken down to infinite amounts of movements, i.e. me moving my arm can be broken down to the infinite moments of every state my arm is in. Only reason can unify these movements because we use practical reason to achieve our goals, means all actions collapse to reason

#### [3] Representations of space – we can only access our experiences if we can interpret the space around us, but that requires the a priori. Thinking of the absence of space is impossible – we can think of empty space but never the lack of space itself. Imagining space through a priori thoughts is the only way we can even begin to have a conception of interpreting experience; we need to be able to construct space through our minds.

#### [4] Separateness – if space is based on experience, it must be formed from objects separate to us outside of our reasoning abilities. But to represent objects as separate from us, we would already need to assume space exists in the first place to have a concept of “separateness,” so to represent space as something separate from us would be incoherent.

#### Practical reason means we all have a unified perspective: What can be justified to me can be justified to everyone who is a practical reasoner. If I can conclude that 2+2 is 4, then I understand not only that I know 2+2 is 4, but that everyone around me can arrive at the same conclusion. These things are temporally consistent: I know that me adding two numbers now and taking that sum will not result in me adding the same two numbers in the future and getting a different sum. Our unified perspective does not change but rather stays consistent.

#### But, willing an action that violates the freedom of others is a contradiction: If I decide to kill someone, that action is not universalizable because that would justify other people killing me too. If I die, I cannot exercise my freedom to kill someone else. This is a contradiction: I both justify extending my freedom to kill others and limiting my own freedom.

#### Thus, the standard is respecting freedom.

#### Acquisition of property can never be unjust – to create rights violations, there must already be an owner of the property being violated, but that presupposes its appropriation by another entity.

Feser, (Edward Feser, 1-1-2005, accessed on 12-15-2021, Cambridge University Press, "THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION | Social Philosophy and Policy | Cambridge Core", Edward C. Feser is an American philosopher. He is an Associate Professor of Philosophy at Pasadena City College in Pasadena, California. [https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)[brackets](https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)%5bbrackets) for gen lang]//phs st

There is a serious difficulty with this criticism of Nozick, however. It is just this: There is no such thing as an unjust initial acquisition of resources; therefore, there is no case to be made for redistributive taxation on the basis of alleged injustices in initial acquisition. This is, to be sure, a bold claim. Moreover, in making it, I contradict not only Nozick’s critics, but Nozick himself, who clearly thinks it is at least possible for there to be injustices in acquisition, whether or not there have in fact been any (or, more realistically, whether or not there have been enough such injustices to justify continual redistributive taxation for the purposes of rectifying them). But here is a case where Nozick has, I think, been too generous to the other side. Rather than attempt —unsatisfactorily, in the view of his critics—to meet the challenge to show that initial acquisition has not in general been unjust, he ought instead to have insisted that there is no such challenge to be met in the first place. Giving what I shall call “the basic argument” for this audacious claim will be the task of Section II of this essay. The argument is, I think, compelling, but by itself it leaves unexplained some widespread intu- itions to the effect that certain specific instances of initial acquisition are unjust and call forth as their remedy the application of a Lockean proviso, or are otherwise problematic. (A “Lockean proviso,” of course, is one that forbids initial acquisitions of resources when these acquisitions do not leave “enough and as good” in common for others.) Thus, Section III focuses on various considerations that tend to show how those intuitions are best explained in a way consistent with the argument of Section II. Section IV completes the task of accounting for the intuitions in question by considering how the thesis of self-ownership itself bears on the acqui- sition and use of property. Section V shows how the results of the previ- ous sections add up to a more satisfying defense of Nozickian property rights than the one given by Nozick himself, and considers some of the implications of this revised conception of initial acquisition for our under- standing of Nozick’s principles of transfer and rectification. II. The Basic Argument The reason there is no such thing as an unjust initial acquisition of resources is that there is no such thing as either a just or an unjust initial acquisition of resources. The concept of justice, that is to say, simply does not apply to initial acquisition. It applies only after initial acquisition has already taken place. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer). This, it seems to me, is a clear implication of the assumption (rightly) made by Nozick that external resources are initially unowned. Consider the following example. Suppose an individual A seeks to acquire some previously unowned resource R. For it to be the case that A commits an injustice in acquiring R, it would also have to be the case that there is some individual B (or perhaps a group of individuals) against whom A commits the injustice. But for B to have been wronged by A’s acquisi- tion of R, B would have to have had a rightful claim over R, a right to R. By hypothesis, however, B did not have a right to R, because no one had a right to it—it was unowned, after all. So B was not wronged and could not have been. In fact, the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. The same thing, by extension, will be true of all unowned resources: it is only after some- one has initially acquired them that anyone could unjustly come to possess them, via unjust transfer. It is impossible, then, for there to be any injustices in initial acquisition.7

## CP

#### Ppl’s rep of china] ought to:

#### --Announce that appropriation of outer space by private actors violates the Outer Space Treaty and that this is a settled matter of customary international law

#### --Announce that this action is taken pursuant to *opinio juris* (the belief that the action is taken pursuant to a legal obligation) and that non-compliant actors are in violation of international law

#### --Fully comply, not appropriating outer space in a manner inconsistent with these proclamations

#### Solves the Aff.

[Fabio](https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/33.3/AILA2008021) **Tronchetti 8**. Dr. Fabio Tronchetti works as a Co-Director of the Institute of Space Law and Strategy and as a Zhuoyue Associate Professor at Beihang University, “The Non–Appropriation Principle as a Structural Norm of International Law: A New Way of Interpreting Article II of the Outer Space Treaty,” Air and Space Law, Volume 33, No 3, 2008, <https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/33.3/AILA2008021>, RJP, **DebateDrills**.

The non–appropriation principle represents the fundamental rule of the space law system. Since the beginning of the space era, it has allowed for the safe and orderly development of space activities. Nowadays, however, the principle is under attack. Some proposals, arguing the need for abolishing it in order to promote commercial use of outer space are undermining its relevance and threatening its role as a guiding principle for present and future space activities. This paper aims at safeguarding the non–appropriative nature of outer space by suggesting a new interpretation of the non–appropriation principle that is based on the view that this principle should be regarded as a customary rule of international law of a special character, namely ‘a structural norm’ of international law.

#### That competes ---

#### 1] Widespread support for OST overhaul means a new treaty is likely---top military leaders are pushing it.

Theresa **Hitchens 21**. Theresa Hitchens is the Space and Air Force reporter at Breaking Defense. The former Defense News editor was a senior research associate at the University of Maryland’s Center for International and Security Studies at Maryland (CISSM). Before that, she spent six years in Geneva, Switzerland as director of the United Nations Institute for Disarmament Research (UNIDIR). “US Should Push New Space Treaty: Atlantic Council,” Breaking Defense, April 12, 2021, <https://breakingdefense.com/2021/04/us-should-push-new-space-treaty-atlantic-council/>, RJP, **DebateDrills**

WASHINGTON: The US should push hard to overhaul the entire international legal framework for outer space — including replacing the foundational [1967 Outer Space Treaty (OST),](https://breakingdefense.com/tag/outer-space-treaty/) a new report from the Atlantic Council says.

As it moves to do so, the US also should more aggressively court allies with an eye to establishing a “collective security alliance for space” among likeminded countries to “deter aggression” and defend “key resources and access.”

“The 1967 Treaty is dated. It was written, literally, in a different era,” said former Air Force Secretary Deborah Lee James in an Atlantic Council briefing today. “At present it is too broad, and in some cases it’s probably overly specific.”

The year-long study, [“The Future of Security In Space: A Thirty-Years US Strategy”](https://www.atlanticcouncil.org/wp-content/uploads/2021/04/TheFutureofSecurityinSpace.pdf)was co-chaired by James and retired Marine Corps Gen. Hoss Cartwright, former vice chair of the Joint Chiefs of Staff. In essence, it argues that the US needs to lead international efforts to craft a new rules-based regime to govern all space activities — from exploration to commercial ventures to military interactions. As the two argued in a recent [op-ed in Breaking D,](https://breakingdefense.com/2021/03/the-space-rush-new-us-strategy-must-bring-order-regulation/) “Great-power competition among the United States, China, and Russia has launched into outer space without rules governing the game.”

“The international law of space, centered on the 1967 Outer Space Treaty, is outdated and insufficient for a future of space in which economic activity is primary. The international community needs a new foundational space treaty, and the United States should precipitate its negotiation,” the study argues.

James elaborated that the idea would be to craft a more expansive treaty that covers emerging issues like debris mitigation and removal and [commercial extraction of resources](https://breakingdefense.com/tag/space-resource-extraction/) from the Moon and/or asteroids. That said, she stressed that the US should not abandon the OST — which has been signed by 193 nations — unless and until something new is there to replace it.

#### 2] Space law is typically treaty-based---Russian and Chinese proposals prove.

Stephanie **Nebehay 8**. Reporter, Reuters, “China, Russia to Offer Treaty to Ban Arms in Space,” Reuters, January 26, 2008, <https://www.reuters.com/article/us-arms-space/china-russia-to-offer-treaty-to-ban-arms-in-space-idUSL2578979020080125>, RJP, **DebateDrills**

GENEVA (Reuters) - China and Russia will submit a joint proposal next month for an international treaty to ban the deployment of weapons in outer space, a senior Russian arms negotiator said on Friday.

Valery Loshchinin, Russia’s ambassador to the United Nations-sponsored Conference on Disarmament, said the draft treaty would be presented to the 65-member forum on February 12.

Russian Foreign Minister Sergei Lavrov is due to address the Geneva forum, which constitutes the world’s main disarmament negotiating body, on that day. Loshchinin gave no details on the proposal which has been circulated to some senior diplomats.

Tensions between Russia and the United States have deepened in recent years over U.S. plans to revive its stalled “Star Wars” program from the 1980s with a new generation of missile defense shields.

Nuclear and other weapons of mass destruction are banned from space under a 1967 international treaty. But Washington’s plans have stirred concerns about non-nuclear arms in space.

#### 3] Treaties are the foundation of space law.

Sophie **Goguichvili et. al 21**. Program Associate, the Wilson Center, “The Global Legal Landscape of Space: Who Writes the Rules on the Final Frontier?” The Wilson Center, October 1, 2021, <https://www.wilsoncenter.org/article/global-legal-landscape-space-who-writes-rules-final-frontier>, RJP, **DebateDrills**

As previously mentioned, a series of treaties adopted by the U.N. General Assembly (UNGA) form the foundation of the global space governance system. The first and most significant of these treaties is the “Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies,” more commonly known as the **Outer Space Treaty**or**OST** for short (1967). The Outer Space Treaty is considered the most comprehensive space treaty and provides the basic framework for international space law, namely: the exploration and use of outer space for peaceful purposes by all States for the benefit of mankind (Art. I); the outlaw of national appropriation or claims of sovereignty of outer space or celestial objects (Art. II); a ban on the placement of weapons of mass destruction in orbit or on celestial bodies (Art. IV); that astronauts should be regarded as the envoys of mankind (Art. V); and that States are required to supervise the activities of their national entities (Art. VI).

#### Stick them to normal means – the 1AC read 0 evidence

#### We solve better, since CIL is far superior to treaties for space AND causes follow-on.

Koplow, 9 – Professor of Law, Georgetown University Law Center.

David A. Koplow, “ASAT-isfaction: Customary International Law and the Regulation of Anti-Satellite Weapons,” Michigan Journal of International Law. Volume 30, Summer 2009. <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1452&context=facpub>

Finally, the Article concludes with some policy recommendations, suggesting mechanisms for the world community to press forward with autonomous efforts to promote stability and security in outer space, even in the face of recalcitrance from the leading space powers. I would certainly support the negotiation and implementation of a comprehensive new treaty to prevent an arms race in outer space, and a carefully drafted, widely accepted accord could accomplish much, well beyond what customary law alone could create. But the treaty process, too, has costs and disadvantages, and the world need not pursue just one of these alternatives in isolation.

If the absence of global consensus currently inhibits agreements that countries could already sign, perhaps the world community can nevertheless get some "satisfaction" via the operation of CIL, constructing a similar (although not completely equivalent) edifice of international regulation of ASATs based simply on what countries do.

## DA

#### 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---unilat solves

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.

# Case

#### OST toothless---impossible to enforce, outdated, and private actors will circumvent

Jill Stuart 17, Visiting Fellow in the Department of Government, London School of Economics and Political Science, 1/27/17, “The Outer Space Treaty has been remarkably successful – but is it fit for the modern age?” http://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381

Space exploration is governed by a complex series of international treaties and agreements which have been in place for years. The first and probably most important of them celebrates its 50th anniversary on January 27 – The Outer Space Treaty. This treaty, which was signed in 1967, was agreed through the United Nations, and today it remain as the “constitution” of outer space. It has been signed and made official, or ratified, by 105 countries across the world.

The treaty has worked well so far but challenges have increasingly started to crop up. So will it survive another 50 years?

The Outer Space Treaty, like all international law, is technically binding to those countries who sign up to it. But the obvious lack of “space police” means that it cannot be practically enforced. So a country, individual or company could simply ignore it if they so wished. Implications for not complying could include sanctions, but mainly a lack of legitimacy and respect which is of importance in the international arena.

However it is interesting that, over the 50 years of it’s existence, the treaty has never actually been violated. Although many practical challenges have been made – these have always been made with pars of the treaty in mind, rather than seeking to undermine it entirely.

Challenges so far

Although there are many points to consider in the treaty, one of the most important is that outer space is to be used for “peaceful purposes” – weapons of mass destruction cannot be used in space. Another is that celestial territory (such as the moon or Mars), is not subject to “national appropriation” – in other words, no country can lay claim to them.

These points have been subject to challenges since the treaty came into play – the first example of such a challenge was the Bogota Declaration in 1976. A group of eight countries tried to claim ownership of a segment of an orbit that was in the space situated above their land - since if their borders projected into the heavens, any “stationary” satellite there would always be within their borders.

They claimed that this space did not fall under the definition of “outer space” by the Outer Space Treaty and was therefore a “natural resource”. This declaration was not seen as an attempt to undermine the treaty, but rather to say that orbits that go around the Earth’s equator, or in the direction of the Earth’s rotation, must be owned by the countries beneath. However this was was eventually dismissed by the international community.

In 2007 China was thought to have violated the treaty when it shot down one of it’s own weather satellites with a “ground-based medium-range ballistic missile”. This was seen as “aggressive” by Japan, but since the missiles did not come under the definition of “weapons of mass destruction”, it was found that it did not violate the treaty. There was, however, international outcry because of the debris cloud it caused within the orbit.

We could do with some updates

Despite its importance, we must recognise that the Outer Space Treaty does have some specific failings in the modern era – mainly since it is focused on countries only. Many private companies, such as lunarland, have exploited this

### AT: Space Militarization

#### No uniqueness – most of Chinese militarization isn’t commercial

Lee-Singer, 21, “China’s Space Program Is More Military Than You Might Think”, 7/16/21, Defense One, P.W. Singer is Strategist at New America and the author of multiple books on technology and securityTaylor A. Lee is an analyst with BluePath Labs, a DC-based consulting company that focuses on research, analysis, disruptive technologies, and wargaming. URL <https://www.defenseone.com/ideas/2021/07/chinas-space-program-more-military-you-might-think/183790/>, KR

The militarized tilt of the Chinese space program complicates these plans. Space planning and directing organizations, the ground infrastructure supporting its space programs, and the taikonauts themselves are all under the purview of the People’s Liberation Army. Understanding these connections is important for any plans to cooperate with China in space, whether governmental or commercial.

On the organizational side, China’s equivalent to NASA is the civilian China National Space Administration, which has a focus on the space program’s international exchanges. It falls under the State Administration for Science, Technology and Industry for National Defense, which handles defense-related science and technology, including China’s state-owned defense conglomerates. However, unlike NASA, the CNSA doesn’t oversee China’s astronauts. The organization actually in charge of China’s manned space program is the China Manned Space Engineering Office, which is under China’s Central Military Commission Equipment Development Department.

Likewise, the infrastructure of China’s space program is also heavily militarized. The launch sites, control centers, and many of the satellites are directly run by the PLA. Taikonauts lift off from the Jiuquan Satellite Launch Center (aka Base 20 of the PLA’s Strategic Support Force, its space and cyber arm); directed by the PLASSF’s Beijing Aerospace Flight Control Center, with Telemetry, Tracking and Control support from the Xi’an Satellite Control Center (aka the PLASSF’s Base 26); and land at one of two sites in Inner Mongolia operated by the two bases.

#### No link:

#### Even if they’re right that they work on commercial projects to help each other – the larger iniative is space dominance which the aff doesn’t solve

#### their card literally says they’ve already militarized it so they don’t need alliances (which is what the impact ev is ABOUT, not alliances)

1AC Bowman and Thompson 3/31 [(Bradley Bowman, the senior director of the Center on Military and Political Power at the Foundation for Defense of Democracies) (Jared Thompson, a U.S. Air Force major and visiting military analyst at the Foundation for Defense of Democracies.) “Russia and China Seek to Tie America’s Hands in Space” Foreign Policy 3/31/2021. https://foreignpolicy.com/2021/03/31/russia-china-space-war-treaty-demilitarization-satellites/] BC

Consider the actions of the United States’ two great-power adversaries when it comes to anti-satellite weapons. China and Russia have sprinted to develop and deploy both ground-based and space-based weapons targeting satellites while simultaneously pushing the United States to sign a treaty banning such weapons.

To protect its vital space-based military capabilities—including communications, intelligence, and missile defense satellites—and effectively deter authoritarian aggression, Washington should avoid being drawn into suspect international treaties on space that China and Russia have no intention of honoring.

The Treaty on the Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force Against Outer Space Objects (PPWT), which Beijing and Moscow have submitted at the United Nations, is a perfect example. PPWT signatories commit “not to place any weapons in outer space.” It also says parties to the treaty may not “resort to the threat or use of force against outer space objects” or engage in activities “inconsistent” with the purpose of the treaty.

On the surface, that sounds innocuous. Who, after all, wants an arms race in space?

The reality, however, is that China and Russia are already racing to field anti-satellite weapons and have been for quite some time. “The space domain is competitive, congested, and contested,” Gen. James Dickinson, the head of U.S. Space Command, said in January. “Our competitors, most notably China and Russia, have militarized this domain.”

### AT: ASAT Prolif

#### No link – chronological is not equal to casual – their ev says ASATS is another example, not b/c of its space sector

1AC Rajagopalan 5/12 [(Dr Rajeswari (Raji) Pillai Rajagopalan is the Director of the Centre for Security, Strategy and Technology (CSST) at the Observer Research Foundation, New Delhi. Dr Rajagopalan was the Technical Advisor to the United Nations Group of Governmental Experts (GGE) on Prevention of Arms Race in Outer Space (PAROS) (July 2018-July 2019). She was also a Non-Resident Indo-Pacific Fellow at the Perth USAsia Centre from April-December 2020. As a senior Asia defence writer for The Diplomat, she writes a weekly column on Asian strategic issues. Dr Rajagopalan joined ORF after a five-year stint at the National Security Council Secretariat (2003-2007), Government of India, where she was an Assistant Director. Prior to joining the NSCS, she was Research Officer at the Institute of Defence Studies and Analyses, New Delhi. She was also a Visiting Professor at the Graduate Institute of International Politics, National Chung Hsing University, Taiwan in 2012. Dr Rajagopalan has authored or edited nine books including Global Nuclear Security: Moving Beyond the NSS (2018), Space Policy 2.0 (2017), Nuclear Security in India (2015), Clashing Titans: Military Strategy and Insecurity among Asian Great Powers (2012), The Dragon's Fire: Chinese Military Strategy and Its Implications for Asia (2009). She has published research essays in edited volumes, and in peer reviewed journals such as India Review, Strategic Studies Quarterly, Air and Space Power Journal, International Journal of Nuclear Law and Strategic Analysis. She has also contributed essays to newspapers such as The Washington Post, The Wall Street Journal, Times of India, and The Economic Times. She has been invited to speak at international fora including the United Nations Disarmament Forum (New York), the UN Committee on the Peaceful Uses of Outer Space (COPUOS) (Vienna), Conference on Disarmament (Geneva), ASEAN Regional Forum (ARF) and the European Union.) “China’s irresponsible behaviour: A threat to space security” Observer Research Foundation, 5/12/2021. https://www.orfonline.org/expert-speak/chinas-irresponsible-behaviour-a-threat-to-space-security/] BC

With China planning an ambitious space programme that includes its own space station, it is likely that there will be more such risky incidents in the future as well. It is somewhat disturbing because China’s space programme has advanced to a degree that it undertakes missions including landing on the South Pole-Aitken Basin (on the far side of the Moon), returning rocks from the moon, and an interplanetary mission to Mars, which clearly demonstrates China has the technical capability to design and launch rockets whose spent stages can land without putting others at risk. That it has not done so is odd. It is not exactly what can be characterised as responsible behaviour in space.

Another example of China breaking norms and engaging in irresponsible behaviour in space is its ASAT test. China’s first successful anti-satellite (ASAT) test in January 2007, at an altitude of 850 kilometres, resulted in creating around 3,000 pieces of space debris. More significantly, it broke the unwritten moratorium that was in place for two decades. Beijing also started developing various counterspace capabilities with the goal of competing with the US. Nevertheless, each of China’s actions have led to a spiral effect, with others seeking to match China’s actions, especially in the Indo-Pacific region, given the contested nature of Asian and global geopolitics. For example, China’s repeated ASAT tests have led to the US’ own ASAT test (Operation Burnt Frost in 2008), and India’s ASAT test (Mission Shakti in 2019). India had no plans to go down this path until China’s first ASAT test, which became a gamechanging moment for India. Even so, India did not react to it for more than a decade, but the final decision was a carefully calibrated and a direct response to China’s growing military space capabilities and its less-than responsible behaviour. Other countries like Japan and France are also contemplating moves in this direction. Australia may not be far behind either.

Even though it may not be linked to the uncontrolled re-entry of the Chinese rocket, Jonathan McDowell, an astrophysicist at the Astrophysics Center at Harvard University noted that “about six minutes after Tianhe and the CZ-5B separated, they both came close to the ISS—under 300 km, which given uncertainties in trajectory is a tad alarming.” Making this point, he added “it’s \*possible\* that this ISS/Tianhe close encounter was one of those unlikely coincidences. I’m open to that possibility, but they should still have spotted the closeness and warned NASA (or better, called a collision avoidance hold in the count).”

Rocket re-entries are not uncommon, but space powers have tried to avoid the freefalls by usually conducting controlled re-entries so that they may fall in the ocean, or they may be directed towards the so-called “graveyard” orbits that may lie there for decades. But Jonathan McDowell, an astrophysicist at the Astrophysics Center at Harvard University argues that the Chinese rocket was designed in a manner that “leaves these big stages in low orbit.” And even in the case of controlled re-entries, there are failures sometimes and they can be dangerous too. SpaceX’s rocket debris landing on a farm in Washington in March this year is a case in point.

Moriba Jah, an Associate Professor at The University of Texas at Austin argues in a media interview that such events are going to become more common, and will happen more frequently and, therefore, humanity should come together to “jointly manage near earth space as a commons in need of coordination, protocols, and practices to maximise safety, security, and sustainability.” On the NASA Administrator’s statement, Jah said this should not be “singling out China.” Certainly, this is not about apportioning blame, but China’s actions cannot be condoned either.

What can be done? Given that usable orbits in space are finite in nature, there will need to be steps taken by all the space players to ensure that their actions do not contribute to further pollution of space and make it unusable in the near term. States have to invest in technologies that would aid in cleaning up and getting rid of some of the debris. States also need to come together in developing norms, rules of the road, and legally binding and political instruments on large rocket body re-entries.

The Long March 5B episode has yet again rekindled the debate on the need for rules for rocket and large body re-entries. Brian Weeden of the Secure World Foundation, for instance, questioned why, despite all ranting about China’s rocket re-entry issues, the US State Department has “consistently oppose[d] anything stronger than voluntary guidelines.” Weeden has provided a useful Twitter thread on the US hesitancy to get on board with legal agreements on outer space. One problem is that while the US abides by international obligations, other do not. This is a concern that Weeden notes “has a grain of truth” but adds the caveat that “reality is not that definitive”.

While he is correct to note that the issue is complicated, it is also true that countries like China have a terrible track record when it comes to meeting their treaty commitments. China’s violation of its own commitments with respect to nuclear non-proliferation, or in the South China Sea and East China Sea are well-known. Given this history, it is difficult to believe that China will allow itself to be bound by any restraints on its space programme, even if it signs any of these agreements. But given the US’ almost allergic reaction to signing legal agreements that others like China may violate, it doesn’t hurt China to keep bringing up PPWT-like (Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects) measures every now and then. This puts the whole international community in a bind. If we have to ensure safe and uninterrupted access to space, creating a secure, sustainable, and predictable outer space framework is essential. But unless all states demonstrate a commitment to living up to existing rules and norms, creating new ones will be difficult.

**Pursuit of dominance leads to Sino-Russia alliance**

**Porter, DPhil, 19**

(Patrick, ModernHistory@Oxford, ProfInternationalSecurityAndStrategy@Birmingham, Advice for a Dark Age: Managing Great Power Competition, The Washington Quarterly, 42:1, 7-25)

Even the United States cannot prudently take on every adversary on multiple fronts. The costs of military campaigns against these adversaries in their backyards, whether in the Baltic States or Taiwan, would outstrip the losses that the U.S. military has sustained in decades. Short of all-out conflict, to mobilize for dominance and **risk escalation on multiple such fronts** would court several dangers. It would **overstretch the country**. The U.S. defense budget now approaches $800 billion annually, not including deficit-financed military operations. This is a time of ballooning deficits, where the Congressional Budget Office warns that “the prospect of large and growing debt poses substantial risks for the nation.”27 If in such conditions, current expenditure is not enough to buy unchallengeable military preponderance—and it may not be—then the failure lies not in the failure to spend even more. Neither is the answer to sacrifice the quality of civic life at home to service the cause of preponderance abroad. The old “two war standard,” a planning construct whereby the United States configures its forces to conduct two regional conflicts at once, would be unsustainably demanding against more than one peer competitor, or potentially with a roster of major and minor adversaries all at once.28 After all, the purpose of American military power is ultimately to secure a way of life as a constitutional republic. To impose ever-greater debts on civil society and strip back collective provision at home, on the basis that the quality of life is expendable for the cause of hegemony, is perversely to set up power-projection abroad as the end, when it should be the means. The problem lies, rather, in **the inflexible pursuit of hegemony itself**, and the **failure to balance commitments** with scarce resources. To attempt to suppress every adversary simultaneously would **drive adversaries together, creating hostile coalitions**.