# 1AC

### Plan

#### Plan: The appropriation of outer space through lunar mining by private entities should be banned.

#### We’ll defend normal means as the signatories of the OST adding an optional protocol under Article II.

Tronchetti 7[Fabio Tronchetti is a professor at the International Institute of Air and Space Law, Leiden University, The Netherlands, 2007, <https://iislweb.org/docs/Diederiks2007.pdf>, 12-15-2021 amrita]

ARTICLE II OF THE OUTER SPACE TREATY: A MATTER OF DEBATE The legal content of Article II of the Outer Space Treaty is one of the most debated and analysed topic in the field of space law. Indeed, several interpretations have been put forward to explain the meaning of its provisions. Article II states that: “Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means”. **The text of Article II represents** the final point of a process, formally initiated with Resolution 1721, aimed at conferring to outer space the status of res communis omnium, namely a thing open for the **free exploration** and use by all States **without the possibility of being appropriated**. By prohibiting the possibility of making territorial claims over outer space or any part thereof based on use or occupation, Article II **makes clear that** the customary procedures of **i**nternational **law allowing** subjects to obtain **sovereignty rights over un-owed lands**, namely discovery, occupatio and effective possession, **do not apply to** outer **space.** This prohibition was considered by the drafters of the Outer Space Treaty the best guarantee for preserving outer space for peaceful activities only and for stimulating the exploration and use of the space environment in the name of all mankind. What has been the object of controversy among legal scholars is the question of whether both States and private individuals are subjected to the provisions of Article II. Indeed, **while Article II forbids** expressis verbis the national **appropriation by** claims of **sovereignty**, by means of use and occupation or other means of outer space, **it does not** make **a**ny explicit **mention** **to** its **private** appropriation. Relying on this consideration, some authors have argued that the private appropriation of outer space and celestial bodies is allowed. For instance, in 1968 Gorove wrote: “Thus, at present an individual acting on his own behalf or on behalf of another individual or private association or an international organisation could lawfully appropriate any parts of outer space…”6 . The same argument is used today by the enterprises selling extraterrestrial acres. They base their claim to the Moon and other celestial bodies on the consideration that Article II does not explicitly forbid private individuals and enterprises to claim, exploit or appropriate the celestial bodies for profit7 . However, it must be said, that nowadays there is a general consensus on the fact that **both national appropriation and private** property rights **are denied** under the Outer Space Treaty. Several way of reasoning have been advanced to support this view. Sters and Tennen affirm that the argument that Article II does not apply to private entities since they are not expressly mentioned fails for the reason that they do not need to be explicitly listed in Article II to be fully subject to the non-appropriation principle8 . **Private entities are allowed to carry out** space **activities but**, according to Article VI of the Outer Space Treaty, they **must be authorized** to conduct such activities **by the** appropriate **State** of nationality. But if the State is prohibited from engaging in certain conduct, then it lacks the authority to license its nationals or other entities subject to its jurisdiction to engage in that prohibited activity. Jenks argues that “States bear international responsibility for national activities in space; it follows that what is forbidden to a State is not permitted to a chartered company created by a State or to one of its nationals acting as a private adventurer”9 . It has been also suggested that **the prohibition of national** appropriation **implies prohibition of private** appropriation because the latter cannot exist independently from the former10. In order to exist, indeed, private property requires a superior authority to enforce it, be in the form of a State or some other recognised entity. In outer space, however, this practice of State endorsement is forbidden. Should a State recognise or protect the territorial acquisitions of any of its subjects, this would constitute a form of national appropriation in violation of Article II. Moreover, it is possible to use some historical elements to support the argument that both the acquisition of State sovereignty and the creation of private property rights are forbidden by the words of Article II. During the negotiations of the Outer Space Treaty, the Delegate of Belgium affirmed that his delegation “had taken note of the interpretation of the non-appropriation advanced by several delegations-apparently without contradiction-as covering both the establishment of sovereignty and the creation of titles to property in private law”11. The French Delegate stated that: “…there was reason to be satisfied that three basic principles were affirmed, namely: the prohibition of any claim of sovereignty or property rights in space…”12. The fact that the accessions to the Outer Space Treaty were not accompanied by reservations or interpretations of the meaning of Article II, it is an evidence of the fact that this issue was considered to be settled during the negotiation phase. Thus, summing up, we may say that **prohibition of appropriation of outer space** and its parts is a rule which **is valid for both private and public entity**. The theory that private operators are not subject to this rule represents a myth that is not supported by any valid legal argument. Moreover, it can be also added that if any subject was allowed to appropriate parts of outer space, the basic aim of the drafters of the Treaty, namely to prevent a colonial competition in outer space and to create the conditions and premises for an exploration and use of outer space carried out for the benefit of all States, would be betrayed. Therefore, **the need to protect the non-appropriative nature o**f outer **space emerges** in all its relevance.

#### Countries and their companies are making their own rules through patchwork which creates conflict—an international body is key.

**Whittington 21** [Mark Whittington, 3-28-2021, "The new race to the moon: the Artemis Alliance vs. the Sino-Russian Axis," TheHill, <https://thehill.com/opinion/technology/545280-the-new-race-to-the-moon-the-artemis-alliance-vs-the-sino-russian-axis>] [pT]

Space News recently [reported](https://spacenews.com/china-russia-enter-mou-on-international-lunar-research-station/) that China and Russia have signed a memorandum of understanding to build what the two countries call an “International Lunar Research Station” (ILRS). The facility would conduct a number of activities either on the lunar surface or lunar orbit and would be “open to all interested countries and international partners.” Whether deliberate or not, the two countries have formed an axis against what has come to be known as the Artemis Alliance being formed by NASA with a number of countries and commercial partners. In effect, China and Russia have challenged the United States and the rest of the world to a new race to the moon. With the Biden administration having [endorsed](https://thehill.com/opinion/technology/537663-the-biden-administration-endorses-nasas-artemis-the-space-force) the Trump-era Artemis program, it looks like two credible, rival return-to-the-moon programs are now ongoing. Since one of those programs is run by two authoritarian nations and the other is led by NASA and consists of what many would consider the civilized world, the very definition of a race to the moon has developed, without fanfare, without brave speeches throwing down gauntlets. Is this a good thing or a bad thing? On the positive side, nothing like competition with a hostile power or two focuses the mind and ensures that the Artemis program remains on track and on a sensible schedule. The Apollo program succeeded because the winner of the race to the moon would have bragging rights for being the more technologically adept superpower. On the negative side, what happens to determine which side “wins” the modern space race? During the Apollo-era, the answer was easy. President John F. Kennedy [declared](https://history.nasa.gov/moondec.html) the goal of sending a man to the moon and returning him safely to the Earth before the end of the 1960s. In July 1969, the mission was accomplished. Indeed, the Apollo program had enough momentum for six more manned lunar missions before the United States stopped going to the moon and turned to other priorities. What must happen for the winner to be declared in the new moon race? Who is first to return to the moon is not as important as what happens next. The south pole of the moon is replete with water ice in shadowed craters, Water can be used to help sustain a lunar base. Water can be refined into [rocket propellent](https://thehill.com/opinion/technology/439692-returning-to-the-moon-for-rocket-fuel-and-clean-energy), making the moon a refueling stop for spacecraft headed to other destinations in the solar system, such as Mars. The moon also has a number of other resources ranging from rare earths, to platinum-group metals, to industrial metals such as titanium, iron and aluminum. [Helium-3](https://thehill.com/opinion/technology/540856-solving-the-climate-and-energy-crises-mine-the-moons-helium-3), an isotope embedded in lunar soil, could serve as fuel for future fusion power plants. In short, the side that first exploits lunar resources effectively will be the side that creates a space-based industrial revolution enabled by lunar resources. Either the Sino-Russian Axis or the Artemis Alliance will own the future. A few years ago, [according to Space.com](https://www.space.com/28189-moon-mining-economic-feasibility.html), Ian Crawford, a professor of planetary science and astrobiology at Birkbeck College in the UK, suggested that an economic case could be made for prospecting and mining lunar resources as a way to enable a near-Earth industrial infrastructure. He was skeptical about helium-3, which he regarded as a kind of “fossil fuel.” However, he concluded that in aggregate, the variety of resources on the moon could be exploited in an economical manner. The other question is, who can own space resources? The [Outer Space Treaty](https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introouterspacetreaty.html) prohibits any assertion of sovereignty on the moon or any other celestial body. However, Congress passed a law a few years ago called the [U.S. Space Launch Competitiveness Act](https://www.govtrack.us/congress/bills/114/hr2262/summary) that asserts that American citizens who mine space resources, including on the moon, own those resources. The fact that the United States owns the moon rocks that the Apollo astronauts gathered is seen as a precedent. On the other hand, some suggest that since the act can be seen as an assertion of sovereignty, it violates the spirit of the Outer Space Treaty. The governments of China and Russia might be expected to support the latter view. In order to avoid conflict over resources on the moon or anywhere else in space, some kind of agreement, perhaps based on the [Artemis Accords,](https://www.nasa.gov/specials/artemis-accords/index.html) needs to be struck between the Artemis Alliance and the Sino-Russian Axis. The first side to exploit a deposit of minerals should own it. Otherwise, we might expect the possibility that the Third World War might start on the moon with catastrophic consequences.

law.

### Advantage – Lunar Competition

#### Private companies are set to mine on the moon – financial incentives and state funding set a legal precedent for private activity on the moon.

**Helmore 20** [Edward Helmore, 9-11-2020, "Nasa is looking for private companies to help mine the moon," <https://www.theguardian.com/science/2020/sep/11/nasa-moon-mining-private-companies>] [pT]

Nasa has announced it is looking for private companies to go to the moon and collect dust and rocks from the surface and bring them back to Earth. The American space agency would then buy the moon samples in amounts between 50 to 500 grams for between $15,000 to $25,000. The Nasa administrator, Jim Bridenstine, announced on Thursday that the moon material collection would become part of a technology development program that would help astronauts “live off the land” for crewed missions in the future to the moon or elsewhere. Bridenstine [wrote that the agency](https://twitter.com/JimBridenstine/status/1304049845309669376?s=20) “is buying lunar soil from a commercial provider. It’s time to establish the regulatory certainty to extract and trade space resources.” The collection is part of Nasa’s [Artemis](https://www.nasa.gov/artemis) lunar exploration program established last year to land US astronauts, including the first woman and the next man, on the moon by 2024. The agency has indicated that missions further afield, to Mars for instance, will require the use of locally mined resources. “We will use what we learn on and around the moon to take [the next giant leap](http://www.nasa.gov/specials/moon2mars/) – sending astronauts to Mars,” Bridenstine wrote. [In a blogpost,](https://blogs.nasa.gov/bridenstine/2020/09/10/space-resources-are-the-key-to-safe-and-sustainable-lunar-exploration/) Bridenstine said the effort would comply with the [Outer Space Treaty of 1967](https://history.nasa.gov/1967treaty.html), which says that no country may lay sovereign claim to the moon or other celestial bodies in much the same way that the Antarctic continent is off-limits for territorial conquest. In May, Nasa [unveiled a legal framework](https://www.washingtonpost.com/technology/2020/05/15/moon-rules-nasa-artemis/) that would govern the behavior of countries and companies in space and on the moon. The legal framework, known as the Artemis Accords, include the creation of “safety zones” around sites where mining and exploration would take place on the lunar surface. Nasa’s top administrator also told a [forum](https://swfound.org/events/2020/planetary-protection-and-lunar-activities) held by the Secure World Foundation that the policies that will govern mining from celestial bodies would be much the same as those that currently exist for the world’s oceans. “We do believe we can extract and utilize the resources of the moon, just as we can extract and utilize tuna from the ocean,” he said, without referring to overfishing and pollution that is rapidly destroying fish stocks in many regions. Unlike fisheries, however, participating celestial mining companies would be required to provide imagery of the material and the location from which it was recovered. Nasa already has a separate program to contract companies to fly science experiments and cargo to the moon ahead of a human landing. Those include Astrobotic, SpaceX, Blue Origin, Sierra Nevada Corp and Lockheed Martin. Bridenstine said he anticipated some of those might also be interested in lunar mining. Casey Dreier, chief advocate & senior space policy adviser at the Planetary Society, [wrote on Twitter](https://twitter.com/CaseyDreier/status/1304080050262736896) that the importance of Nasa’s announcement is “not so much the financial incentive (which is tiny) but in establishing the legal precedent that private companies can collect and sell celestial materials (with the explicit blessing of NASA/U.S. gov)”.

#### That’s set to drive conflict- current treaties have zero authority and lack clarity—creates ineffective regulations.

**Jasmamie 21** [Cecilia Jasmamie, 2-2-2021, "Experts warn of brewing space mining war among US, China and Russia," MINING, <https://www.mining.com/experts-warn-of-brewing-space-mining-war-among-us-china-and-russia/>] DD AG recut [pT]

A brewing war to set a mining base in space is likely to see China and Russia joining forces to keep the US increasing attempts to dominate extra-terrestrial commerce at bay, experts warn.  The Trump Administration took an active interest in space, announcing that America would [return astronauts to the moon](https://www.nytimes.com/2019/03/26/science/nasa-moon-pence.html) by 2024 and creating the [Space Force](https://www.npr.org/2019/12/21/790492010/trump-created-the-space-force-heres-what-it-will-do) as the newest branch of the US military. It also proposed global legal framework for mining on the moon, called the Artemis Accords, encouraging citizens to mine the Earth’s natural satellite and other celestial bodies with commercial purposes. The directive classified outer space as a “legally and physically unique domain of human activity” instead of a “global commons,” paving the way for mining the moon without [any sort of international treaty.](https://www.mining.com/how-earth-bound-mining-lawyers-think-about-space-mining/) Spearheaded by the US National Aeronautics and Space Administration (NASA), the Artemis Accords [were signed in October](https://www.businessinsider.com/nasa-artemis-accords-deep-space-exploration-moon-mars-asteroids-comets-2020-10) by Australia, Canada, England, Japan, Luxembourg, Italy and the United Emirates. “Unfortunately, the Trump Administration exacerbated a national security threat and risked the economic opportunity it hoped to secure in outer space by failing to engage Russia or China as potential partners,” says Elya Taichman, former legislative director for then-Republican Michelle Lujan Grisham. “Instead, the Artemis Accords have driven China and Russia toward increased cooperation in space out of fear and necessity,” [he writes](https://www.politico.com/news/2021/01/29/biden-space-diplomacy-russia-china-455963). Russia’s space agency Roscosmos was the first to speak up, [likening the policy to colonialism](https://www.mining.com/russia-slams-trumps-order-to-spur-mining-the-moon-asteroids/). “There have already been examples in history when one country decided to start seizing territories in its interest — everyone remembers what came of it,” Roscosmos’ deputy general director for international cooperation, Sergey Saveliev, said at the time. China, which made history in 2019 by becoming the [first country](https://www.washingtonpost.com/science/2019/01/03/china-lands-spacecraft-far-side-moon-historic-first/) to land a probe on the far side of the Moon, chose a different approach. Since the Artemis Accords [were first announced](https://www.mining.com/russia-slams-trumps-order-to-spur-mining-the-moon-asteroids/), Beijing has approached Russia to [jointly build a lunar research base](https://tass.com/science/1181861). President Xi Jinping has also he made sure [China planted its flag on the Moon](https://www.bbc.com/news/world-asia-china-55192692), which happened in December 2020, more than 50 years after the US reached the lunar surface. The next Wild West? China has historically been excluded from the US-led international order in space. It is not a partner in the International Space Station (ISS) program, and a US legislative provision has limited NASA’s ability to cooperate with it in space since 2011.

#### The race to the lunar reservoir ensures escalation – only a prohibition on private entities checks.

#### **1 -- Proximity – sites are too close to each other and resources are limited.**

**Smith 20** [Adam Smith, 11-24-2020, "Scientists fear conflicts over the Moon’s resources between governments and companies," Independent, <https://www.independent.co.uk/life-style/gadgets-and-tech/moon-government-companies-resources-conflicts-b1761170.html>] [pT]

Scientists fear that the Moon might be plundered too quickly by private companies hoping to extract its valuable resources, new research has hypothesized. A lack of international policies and agreements could result in tensions, overcrowding, and a rapid expansion of moon mining projects, the Center for Astrophysics | Harvard & Smithsonian says in a new paper. Water and iron are particularly valuable resources that could be collected from the Moon, which would help companies construct infrastructure and develop agriculture as well as letting them avoid the vast expense of transporting such materials from the Earth. "A lot of people think of space as a place of peace and harmony between nations. The problem is there's no law to regulate who gets to use the resources, and there are a significant number of space agencies and others in the private sector that aim to land on the moon within the next five years," said Martin Elvis, astronomer at the Center for Astrophysics | Harvard & Smithsonian and the lead author on the paper, which has been published in [Philosophical Transactions of the Royal Society A.](http://dx.doi.org/10.1098/rsta.2019.0563) "We looked at all the maps of the Moon we could find and found that not very many places had resources of interest, and those that did were very small. That creates a lot of room for conflict over certain resources." The treaties that do exist, such as the 1967 Outer Space Treaty, do not offer staunch protection of celestial bodies from companies. The Outer Space Treaty declares that “the moon and other celestial bodies shall be used by all states parties to the treaty exclusively for peaceful purposes”, but is not exclusive to governments. The United States insisted on a clause that [allowed commercial companies to explore space](https://www.independent.co.uk/news/long_reads/if-no-one-owns-moon-can-anyone-make-money-there-space-astronomy-a8087126.html) as long as they “require authorisation and continuing supervision” of the government, as opposed to the Russian view that space exploration should be limited to governments. A following treaty, the 1979 Moon Treaty, has not been ratified by any state that engages in self-launched spaceflight such as the US, Russia, China, Japan, or members of the European Space Agency. "It tries to address the ownership of resources obtained from outer space, and really it was pretty much rejected by the international community”, Dr Jill Stuart, head of space policy at the London School of Economics, [previously told The Independent.](https://www.independent.co.uk/news/world/who-owns-outer-space-and-what-happens-when-corporations-want-extract-resources-asteroids-or-planets-10492126.html) In 2020 the [Artemis Accords were announced](https://www.independent.co.uk/life-style/gadgets-and-tech/news/nasa-moon-mission-artemis-accords-us-china-a9517091.html), which are a set of agreements that requires countries working with the US to return to the moon to commit to transparency about their work, to only explore space for “peaceful purposes”, and to guarantee they would work together to save any astronauts that came into danger during a mission. However, this still does not protect celestial bodies from being overly exploited for resources. "The biggest problem is that everyone is targeting the same sites and resources: states, private companies, everyone. But they are limited sites and resources. We don't have a second moon to move on to. This is all we have to work with." Alanna Krolikowski, assistant professor of science and technology policy at Missouri University of Science and Technology, and a co-author on the paper, said in a statement. "While a comprehensive international legal regime to manage space resources remains a distant prospect, important conceptual foundations already exist and we can start implementing, or at least deliberating, concrete, local measures to address anticipated problems at specific sites today."

#### 2 -- International Dominance – great powers want to appear hegemonically superior.

Cunningham 22 [Philip J. Cunningham has been a regular visitor to China since 1983, working variously as a tour guide, TV producer, freelance writer, independent scholar and teacher. He has conducted media research in China as a Knight Fellow and Fulbright Scholar and was the recipient of a Nieman Fellowship at Harvard. He is the author of Tiananmen Moon, a first-hand account of the 1989 protests in Beijing.] “US extends rivalry with China to the moon as it resists cooperation and seeks control over mining,” January 23rd, 2022, South China Morning Post, <https://www.scmp.com/comment/opinion/article/3164195/us-extends-rivalry-china-moon-it-resists-cooperation-and-seeks>, VM

US extends rivalry with China to the moon as it resists cooperation and seeks control over mining; Nasa claims its Artemis lunar programme will promote diversity and cooperation, but fellow space powers China and Russia have been left out in the cold. With the US attempting to lay down rules for mineral extraction, the new space race looks set to divide the world – and the moon – along Cold War fault lines There’s enough strife on land, sea and in the air to keep US Cold Warriors and their Wolf Warrior counterparts in China sparring for a long time to come, but the race to create zones of influence and secure resources doesn’t begin and end with planet Earth. With the roll-out of Nasa’s Space Launch System rocket and Orion spacecraft last March in support of the US Artemis Programme, the moon has been added to the mix. “Through Artemis, Nasa aims to land the first woman and first person of colour on the moon,” the mission statement reads. The US will “collaborate with commercial and international partners and establish the first long-term presence on the moon”. At first glance, both China and Russia would be logical international partners, but the statement has a distinctly American accent. It’s not the first time the US has tried to set the terms by which other nations can explore Earth’s only natural satellite. A US-scripted “Moon Treaty” was drawn up in 1979 but eventually withered away because the tiny handful of nations capable of competing with the US in space were not interested in signing away their rights. Even the flag-waving president Donald Trump came to disdain the treaty because it suggested that the moon should be treated as part of a “global commons” rather than as a private resource base that individual nations and corporations could exploit. Eager to approve American mining on the moon, Trump issued an executive order on April 6, 2020, “Encouraging International Support for the Recovery and Use of Space Resources”. The moribund 1979 Moon Treaty was thus scrapped. In Trumpian terms, it was “a failed attempt at constraining free enterprise”. The executive order issued by Trump is still in effect and the language has been altered only slightly. The goal of sending the “first woman and next man” to the moon was amended by the Biden administration to read “first woman and first person of colour”. There are several ironies inherent in the way US leaders talk about the space programme. One is the partisan political flavour; the Democrats emphasise its links with identity politics, while Republicans emphasise the capitalist free market element. But neither party wants to be stuck with the budget shortfalls and delays that have dogged the programme from day one. And no one is talking about including China. Given the way Nasa promotes astronaut identity, there’s a further irony in the fact that China happens to have a woman in space at this very moment, and has been sending, by the arcane terms of the US mission statement, “persons of colour” into space since the inception of their programme. If human diversity was really a serious goal of the Artemis programme, there would be scant reason not to cooperate with China. Or Russia for that matter. But why should China and Russia sign on to a day-late, dollar-short programme jump-started by Trump that defines the rules of exploitation on US terms? The US has solicited a number of allies to sign on the Artemis Accords, including members of the Five Eyes intelligence sharing bloc, as well as Japan and South Korea. But it is the recent inclusion of Ukraine that speaks volumes about the political cast of the programme. What the mission statement is really saying is that the US reserves the right to exploit the mineral resources of the moon, and will do so with allies of its choosing and within guidelines of its own creation. As for China and Russia, the only two serious rivals to the US in space, they have been left out in the cold. The Artemis Accords add another brick to the regulatory firewall the US has built regarding cooperation with China in space. The 2011 Wolf Amendment prohibited such cooperation, with the unsurprising result that China has taken a go-it-alone approach ever since. Furthermore, the inclusion in the US space bloc of Ukraine, a bitter adversary of Russia, only serves to increase the likelihood that China and Russia will look to one another as partners in space. Already, plans for a Sino-Russian moon base are being touted. The implicit anti-China gist of the Artemis programme is symptomatic of US party-driven politics in general. On the one hand, there’s a seemingly unbridgeable political divide at home; on the other, one administration looks the same as the other when viewed from afar. The ostensible aim of the Artemis programme is to promote cooperation, diversity and set down rules for lunar exploration. In reality, it is dividing the world into two camps, following the familiar East-West fault lines established in the last Cold War.

#### **3** -- **Miscalculation compounded by harsh space conditions and Sino-US competition**

LSE 21 [LSE IDEAS is LSE’s foreign policy think tank [London School of Economics and Political Science]. They connect academic knowledge of diplomacy and strategy with the people who use it.] April 29th, 2021, “Coordination Failure: Risks of US-China competition in space,” <https://lseideas.medium.com/coordination-failure-risks-of-us-china-competition-in-space-7112ca4f4da1>, VM Geographically Concentrated Sites of Interest Given the vast expanse of space beyond Earth orbit, it may seem odd to raise the US and China “stepping on each other’s toes” as a potential concern. However, should sites of scientific, commercial and exploration interest be geographically concentrated, the risks of a national incident **stemming from miscalculation** or obstinacy by either the US, China, or both, are **not to be dismissed**. This will likely be less due to direct competition over resources or scientific data, but because of the fact that **harsh space environments** increase the risk of harmful interference from other parties. At present, no comprehensive, agreed framework of norms exists to coordinate the activities of state and commercial actors beyond Earth orbit. Whilst international treaties exist that provide general provisions, most infamously the preclusion of the appropriation of celestial bodies by the Outer Space Treaty, a need exists for more detailed mechanisms of coordination of various interests seeking to expand their operations beyond the Earth’s well-populated orbital spheres. The US has initiated the Artemis Accords, which have been signed by 9 nations to date, and establish provisions such as the creation of safety zones to de-risk simultaneous operations. However, being bilateral and US led, these have been met by **effective silence** from China (and **outright condemnation** by Russia). This fact elevates the risk of harmful miscalculations by respective actors. Both nations’ lunar exploration programmes are exemplary of these issues and present the most urgent imminent risks. Both Artemis Basecamp and the ILRS will be situated on the Lunar South Pole. Most likely, any crewed CNSA mission hoping to establish a sustainable presence on the moon will also situate itself at the South Pole. Reflecting this, the majority of the US and China’s robotic surface missions, under the Commercial Lunar Payload Services (CLPS) and Chang’e programme respectively, are bound for the region. This trend is primarily driven by the fact that the South Pole presents an optimal environment for the establishment of semi-permanent and permanent crewed bases on the moon, and, in the longer term, for the enablement of future missions beyond the Earth-Moon system. Reasons for this include the high-duration exposure to sunlight of certain terrain within the region, alongside an apparently elevated concentration of useful and accessible resources, most immediately water.[13] A lack of coordination in such a concentrated geography could pose considerable risk, primarily because of the harsh and unforgiving environment of space.

#### 4 -- Flashpoints – water, eternal light peaks, iron, and cold traps.

**Dorminey 20** [Bruce Dorminey, 11-26-2020, "Moon Rush Could Spark Conflict, Claims Study," Forbes, <https://www.forbes.com/sites/brucedorminey/2020/11/26/moon-rush-could-spark-conflict-claims-study/>] [pT]

The coming near-term Moon rush may end up creating new political and economic tensions, or even conflicts, as both commercial and national space agency players compete for a limited number of easily accessible lunar resources. Or so says a new study by an international team of researchers led by the Harvard Smithsonian Center for Astrophysics. In their paper just published in The Philosophical Transactions of the Royal Society A., the authors argue that many of the useful and valuable resources on the Moon are concentrated into a modest number (tens) of quite small regions (in the order of a few kilometers). “Once a resource is sufficiently valuable and scarce, disputes are inevitable.” Martin Elvis, a senior astrophysicist at the Harvard Smithsonian Center for Astrophysics and the paper’s lead author, told me. “Whether they become conflicts in the sense of being violent is up to how we choose to govern the Moon.” The authors note that conflicts over access to five prime lunar resources are potential flashpoints: —- Water. Both for life support. And to split into its constituent components of hydrogen and oxygen which can then be liquefied and used as rocket fuel. —- Peaks of Eternal Light. These Peaks are valuable for both the collection of almost continuous solar power, say the authors. And as locations where the approximately 300-degrees-Celsius day-to-night temperature swings of the typical equatorial lunar surface location are mostly avoided, they note. —- Iron. Lunar Iron-rich regions derived from asteroid impacts are some 30–300km across and limited to 20 or so sites, write the authors. However, asteroid iron also has the advantage that it may also be rich in precious metals, including platinum and palladium, they note. And Iron becomes important when building heavy industrial equipment. —- Cold Traps. So-called Cold Traps in the permanently dark craters at the poles are thought to contain volatile materials from the early solar system, including water, write the authors. The floors of such craters have been in almost total darkness for up to 3.5 billion years, they note, illuminated only by starlight and reflections off the nearby rims. Extremely cold (below −180 Celsius), they may be uniquely well-suited sites for far-infrared telescopes, or as a spot to build ultra-cold atom facilities on a far larger scale than on Earth or in laboratories in free space, the authors write. —- And Helium-3. Such lunar sources of Helium-3 will be needed to power fusion nuclear reactors back here on Earth. But such fusion reactors remain a technology whose fruition is still decades in the future. Lunar cold traps located at the South Pole of the moon, are critical to all moon-based operations ... [+] DAVID PAIGE, REPRODUCED WITH PERMISSION. Who might be at loggerheads within the next few years about lunar resources? We are already seeing increasing Chinese and Russian state-led activity, albeit with private sector plug-ins, and a rescheduled NASA program will see a return to the Moon, and to much the same sites that China and Russia are also targeting, Tony Milligan, Senior Researcher at the Cosmological Visionaries project at King’s College London and one of the paper’s co-authors, told me. So, the initial stages of tension development over the coming decade may look like a continuation of the old cold war, albeit with China as a bigger player, he says. And also over the next five years, at least five sovereign nations have credible plans to land on the Moon (China, India-Japan, Russia, USA), write the authors. In addition, several commercial companies (including PTScientists, Moon Express, Astrobotic, Masten, ispace), and the non-profit SpaceIL, have stated intentions to do so, they note. However, Elvis thinks that an initial point of contention could come with the construction of solar power towers. Elvis says that the first lunar human base will need a 100 kW or so. A few 20-meter-high solar panels could supply that power, he says. But because the Sun circles very close to the horizon at the lunar South Pole, at some time during the lunar day one tower will inevitably cast its long shadow on any other towers in the vicinity, says Elvis. To avoid daily lunar blackouts, there will need to be some sort of coordination on where they place their solar power towers, he says. Does the current 1967 Outer Space Treaty (OST) offer guidance in avoiding such conflicts? As Elvis points out, the OST is heavily based on the Antarctic Treaty, with many equivalent points: territorial claims ”on hold”; no military use; no nukes; inspections of facilities consultative meetings of signatories; disputes resolved by negotiation, mediation, and conciliation. “The big difference is that for Antarctica disputes can be sent to the International Court of Justice,” said Elvis. “The OST has no enforcement mechanism.” Can the current outer space treaty be updated? “On the Moon, you don’t need all out war in order for people to be harmed in avoidable ways, you just need pressures to overextend supply lines, and failures to assist in a timely manner,” said Milligan. Thus, some level of tacit coordination will be necessary to avoid problems once the Moon rush begins. Yet coordination will be most effective if it is pursued before actors make difficult-to-reverse commitments to mission designs or substantial investments, Alanna Krolikowski, a political scientist at the Missouri University of Science and Technology (Missouri S&T) and one of the paper’s co-authors, told me. Even so, Elvis is not overly optimistic about any sort of new negotiated outer space treaty. It's hard to see any new treaty being negotiated in today's situation, says Elvis. Not only because of increased nationalism, he says, but also because in 1967 there were really only two players: the U.S.A. and the U.S.S.R. Now there are many, and an increasing number, including commercial companies, says Elvis. Conflict on the Moon itself may begin as a kind of arms race, where one party tries to exclude another from a valuable location, and the response is to find a way to by-pass these ploys, he says. “After a certain point some mechanism to resolve these disputes will be necessary; the alternative is not good,” says Elvis.

#### 5 -- Lack of regulation – no clear metric for what private companies are able to do on the moon guarantees escalation on Earth.

**Milligan 20** [Tony Milligan, 12-9-2020, "Lunar gold rush could create conflict on the ground if we don't act now – new research," Conversation, <https://theconversation.com/lunar-gold-rush-could-create-conflict-on-the-ground-if-we-dont-act-now-new-research-151645>] [pT]

These materials will be of interest both to those trying to establish infrastructure on the Moon and are later targeting Mars as well as commercial exploitation (mining), or science – for example creating telescopic arrays on the lunar far side, away from the growing noise of human communications. How then do we deal with the problem? [The Outer Space Treaty](https://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381) (1967) holds that “the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and shall be the province of all mankind.” States do not get to claim parts of the Moon as property, but they can still use them. Where this leaves disputes and extraction by private companies is unclear. Proposed successors to the treatment, such as the [Moon Agreement (1979)](https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/intromoon-agreement.html), are seen as too restrictive, requiring a formal framework of laws and an ambitious international regulatory regime. The agreement has failed to gain support among key players, including the US, Russia and China. More recent steps, such as the [Artemis Accords](https://www.nasa.gov/specials/artemis-accords/index.html) – a set of guidelines surrounding the Artemis Program for crewed exploration of the Moon – [are perceived as](https://theconversation.com/artemis-accords-why-many-countries-are-refusing-to-sign-moon-exploration-agreement-148134) heavily tied to the US programme. In the worst case, this lack of framework could lead to heightened tensions on Earth. But it could also create unnecessary duplication of infrastructure, with everyone building their own stuff. That would drive up costs for individual organisations, which they would then have reasons to try to recoup in ways that could compromise opportunities for science and the legacy we leave for future generations.

#### Aff is try or die – a lunar gold rush is coming in this decade and triggers conflict

Milligan 20 Tony Milligan [Tony Milligan is a Scottish philosopher who is currently a teaching fellow in ethics and the philosophy of religion in the Department of Theology and Religious Studies at King's College London. Much of his research concerns Iris Murdoch, the philosophy of love, animal ethics, space policy and civil disobedience.], 12-9-2020, "Lunar gold rush could create conflict on the ground if we don't act now – new research," Conversation, <https://theconversation.com/lunar-gold-rush-could-create-conflict-on-the-ground-if-we-dont-act-now-new-research-151645> DD AG

When it comes to the Moon, everyone wants the same things. Not in the sense of having shared goals, but in the sense that all players target the same strategic sites – state agencies and the private sector alike. That’s because, whether you want to do science or make money, you will need things such as water and light.

Many countries and private companies have ambitious plans to explore or mine the Moon. This won’t be at some remote point in time but soon – even in this decade. As Martin Elvis, Alanna Krolikowski and I set out in a recent paper, published in the Transactions of the Royal Society, this will spark tension on the ground unless we find ways to manage the situation imminently.

So far, much of the debate around exploring and mining the Moon has focused on tensions in space between state agencies and the private sector. But as we see it, the pressing challenge arises from limited strategic resources.

Important sites for science are also important for infrastructure construction by state agencies or commercial users. Such sites include “peaks of eternal light” (where there is almost constant sunlight, and hence access to power), and continually shaded craters at the polar regions, where there’s water ice. Each is rare, and the combination of the two – ice on the crater floor and a narrow peak of eternal light on the crater rim – is a prized target for different players. But they occur only in polar regions, rather than at the equatorial sites targeted by the Apollo programme in the 1960s and 1970s.

The recent successful landing of Chang’e 5 by China targeted a relatively smooth landing site on the lunar nearside, but it is part of a larger, phased programme due to take China’s space agency down to the lunar south pole by 2024.

India tried a more direct polar route, with its failed Chandrayaan-2 lander crashing in the same region in 2019. The Russian Roscosmos, collaborating with the European Space Agency, is also targeting the south polar region for landings late in 2021 and, in 2023, at Boguslavsky crater, as a test mission. Next, Roscosmos will aim for the Aitken Basin in the same region in 2022 on the to prospect for water in permanently shadowed areas. A number of private companies also have ambitious plans for mining the Moon for resources.

Strategic resources that aren’t in the polar regions tend to be concentrated rather than evenly distributed. Thorium and uranium, which could be used for radioactive fuel, are found together in 34 regions that are areas of less than 80km wide. Iron resulting from asteroid impacts can be found within broader territories, ranging from 30-300km across, but there are only around 20 such areas.

And then there is the poster boy of lunar resources, mined in dozens of science fiction films: Helium-3, for nuclear fusion. Seeded by the Sun in the powdery crushed rock of the lunar surface, it is present in wide areas across the Moon, but the highest concentrations are found in only about eight regions, all relatively small (less than 50km across).

These materials will be of interest both to those trying to establish infrastructure on the Moon and are later targeting Mars as well as commercial exploitation (mining), or science – for example creating telescopic arrays on the lunar far side, away from the growing noise of human communications.

How then do we deal with the problem? The Outer Space Treaty (1967) holds that “the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and shall be the province of all mankind.” States do not get to claim parts of the Moon as property, but they can still use them. Where this leaves disputes and extraction by private companies is unclear.

Proposed successors to the treatment, such as the Moon Agreement (1979), are seen as too restrictive, requiring a formal framework of laws and an ambitious international regulatory regime. The agreement has failed to gain support among key players, including the US, Russia and China. More recent steps, such as the Artemis Accords – a set of guidelines surrounding the Artemis Program for crewed exploration of the Moon – are perceived as heavily tied to the US programme.

In the worst case, this lack of framework could lead to heightened tensions on Earth. But it could also create unnecessary duplication of infrastructure, with everyone building their own stuff. That would drive up costs for individual organisations, which they would then have reasons to try to recoup in ways that could compromise opportunities for science and the legacy we leave for future generations.

#### Competition over the moon space explodes geopolitical tensions and escalates through satellite use.

Skibba 18 [Nautilus, “Mining in Space Could Lead to Conflicts on Earth”, Ramin Skibba is a science writer and astrophysicist based in Santa Cruz and San Diego. URL: <https://nautil.us/mining-in-space-could-lead-to-conflicts-on-earth-2-7300/>] KR Recut VM

Major space-faring nations are not among the 16 countries party to the treaty, but they should arguably come to some equitable agreement, since international competition over natural resources in space may very well transform into conflict. Take platinum-group metals. Mining companies have found about 100,000 metric tons of the stuff in deposits worldwide, mostly in South Africa and Russia, amounting to $10 billion worth of production per year, according to the U.S. Geological Survey. These supplies should last several decades if demand for them doesn’t rise dramatically. (According to Bloomberg, supply for platinum-group metals is constrained while demand is increasing.) Palladium, for example, valued for its conductive properties and chemical stability, is used in hundreds of millions of electronic devices sold annually for electrodes and connector platings, but it’s relatively scarce on Earth. A single giant, platinum-rich asteroid could contain as much platinum-group metals as all reserves on Earth, the Google-backed Planetary Resources claims. That’s a massive bounty. As Planetary Resources and other U.S. and foreign companies scramble for control over these valuable space minerals, competing “land grabs” by armed satellites may come next. Platinum-group metals in space may serve the same role as oil has on Earth, threatening to extend geopolitical struggles into astropolitical ones, something Trump is keen on preparing for. Yesterday he said he’s seriously weighing the idea of a “Space Force” military branch. NASA’s increasing collaboration with space mining companies could distort and divert efforts previously focused on space exploration. Moreover, the technology that might enable this free-for-all—versatile “nanosatellites,” no larger than a loaf of bread—is relatively inexpensive. While reporting for a story about these tiny satellites, also known as CubeSats, I came across some missions applicable to mining asteroids. In November, NASA will launch a satellite for a mission called Near-Earth Asteroid Scout, for example. It will deploy a solar sail, propel itself with sunlight, and journey to the asteroid belt, where it will scope out a particular asteroid and analyze its properties. NASA has also awarded grants to Planetary Resources to advance the designs of spectral imagers and propulsion systems for CubeSats, and other missions will develop the satellites’ abilities to communicate and network with each other. NASA also awarded Deep Space Industries contracts to assess commercial approaches for NASA’s asteroid goals, which may involve hosting DSI’s asteroid-prospecting equipment on its missions. Like all forms of mining, it will be dangerous. If space-mining activities break up asteroids, the resulting debris could be hazardous for satellites, other spacecraft, and astronauts nearby. On the other hand, in a best-case scenario, space mining could be environmentally safe, capture only necessary minerals and water, and, in the more distant future even lead to the construction of a far-flung space station led by NASA and other space agencies, orbiting 200 million miles from Earth and serving as both a mining depot and a pit-stop for passing spacecraft. But it’s not clear that a pact between the commercial space mining industry and NASA would align with the public’s interest. NASA’s increasing collaboration with space mining companies could distort and divert efforts previously focused on space exploration andbasicresearch, anddiscourage public interest and engagement in astronomy. For example, Seager advocated for space mining at a science writing conference I attended in 2015. She’s part of a motley group of advisors for Planetary Resources, including the movie director James Cameron, a lawyer for a prominent Washington D.C. firm, and Dante Lauretta, another astronomer whom I respect. Seager seems to believe that encouraging private space mining will lead to more investments and technological innovation that would enable more scientific research. In a 2012 interview with The Atlantic, for instance, she said, “The bottom line is that NASA is not working the best that it could for space science right now, and so in order for people like me to succeed with my own research goals, the commercial space industry needs to be able to succeed independently of government contracts.” But if the U.S. and U.S.-based companies lay claim to the richest and most easily accessible prospecting sites, not allowing other companies and nations to share in the wealth, economic and political relations could be damaged.

That’s why this seems to be a dangerous path for space explorers. Once you’re on board with the commercial space industry, then you as a researcher must accept, if not support, everything that comes with it. Seager and a few other researchers may be willing to take this risk, but what about the rest of the space science community? Moreover, to succeed, these businesses will seek profitable missions, while science, exploration, and discovery—goals that stimulate public interest—will inevitably have lower priority. (Other commercial spaceflight companies, like Elon Musk’s SpaceX, do generate public interest, but they’re not directly involved in mining asteroids.) NASA may have its shortcomings, but at least its missions and research goals answer to the public. It’s not exactly a welcome thought to imagine more and more of our presence and activity in space being ceded, with NASA’s help, to private industry.

#### Space wars go nuclear and tensions uniquely spill down to Earth

Grego 18 [Laura, Senior Scientist in the Global Security Program at the Union of Concerned Scientists, Postdoctoral Researcher at the Harvard-Smithsonian Center for Astrophysics, PhD in Experimental Physics at the California Institute of Technology, Space and Crisis Stability, Union of Concerned Scientists, 3-19-18, <https://www.law.upenn.edu/live/files/7804-grego-space-and-crisis-stabilitypdf>]

Why space is a particular problem for crisis stability For a number of reasons, space poses particular challenges in preventing a crisis from starting or from being managed well. Some of these are to do with the physical nature of space, such as the short timelines and difficulty of attribution inherent in space operations. Some are due to the way space is used, such as the entanglement of strategic and tactical missions and the prevalence of dual-use technologies. Some are due to the history of space, such the absence of a shared understanding of appropriate behaviors and consequences, and a dearth of stabilizing personal and institutional relationships. While some of these have terrestrial equivalents, taken together, they present a special challenge. The vulnerability of satellites and first strike incentives Satellites are inherently fragile and difficult to protect; in the language of strategic planners, space is an “offense-dominant” regime. This can lead to a number of pressures to strike first that don‘t exist for other, better-protected domains. Satellites travel on predictable orbits, and many pass repeatedly over all of the earth‘s nations. Low-earth orbiting satellites are reachable by missiles much less capable than those needed to launch satellites into orbit, as well as by directed energy which can interfere with sensors or with communications channels. Because launch mass is at a premium, satellite armor is impractical. Maneuvers on orbit need costly amounts of fuel, which has to be brought along on launch, limiting satellites‘ ability to move away from threats. And so, these very valuable satellites are also inherently vulnerable and may present as attractive targets. Thus, an actor with substantial dependence on space has an incentive to strike first if hostilities look probable, to ensure these valuable assets are not lost. Even if both (or all) sides in a conflict prefer not to engage in war, this weakness may provide an incentive to approach it closely anyway. A RAND Corporation monograph commissioned by the Air Force15 described the issue this way: First-strike stability is a concept that Glenn Kent and David Thaler developed in 1989 to examine the structural dynamics of mutual deterrence between two or more nuclear states.16 It is similar to crisis stability, which Charles Glaser described as ―a measure of the countries‘ incentives not to preempt in a crisis, that is, not to attack first in order to beat the attack of the enemy,‖17 except that it does not delve into the psychological factors present in specific crises. Rather, first strike stability focuses on each side‘s force posture and the balance of capabilities and vulnerabilities that could make a crisis unstable should a confrontation occur. For example, in the case of the United States, the fact that conventional weapons are so heavily dependent on vulnerable satellites may create incentives for the US to strike first terrestrially in the lead up to a confrontation, before its space-derived advantages are eroded by anti-satellite attacks.18 Indeed, any actor for which satellites or space-based weapons are an important part of its military posture, whether for support missions or on-orbit weapons, will feel “use it or lose it” pressure because of the inherent vulnerability of satellites. Short timelines and difficulty of attribution The compressed timelines characteristic of crises combine with these “use it or lose it” pressures to shrink timelines. This dynamic couples dangerously with the inherent difficulty of determining the causes of satellite degradation, whether malicious or from natural causes, in a timely way. Space is a difficult environment in which to operate. Satellites orbit amidst increasing amounts of debris. A collision with a debris object the size of a marble could be catastrophic for a satellite, but objects of that size cannot be reliably tracked. So a failure due to a collision with a small piece of untracked debris may be left open to other interpretations. Satellite electronics are also subject to high levels of damaging radiation. Because of their remoteness, satellites as a rule cannot be repaired or maintained. While on-board diagnostics and space surveillance can help the user understand what went wrong, it is difficult to have a complete picture on short timescales. Satellite failure on-orbit is a regular occurrence19 (indeed, many satellites are kept in service long past their intended lifetimes). In the past, when fewer actors had access to satellite-disrupting technologies, satellite failures were usually ascribed to “natural” causes. But increasingly, even during times of peace operators may assume malicious intent. More to the point, in a crisis when the costs of inaction may be perceived to be costly, there is an incentive to choose the worst-case interpretation of events even if the information is incomplete or inconclusive. Entanglement of strategic and tactical missions During the Cold War, nuclear and conventional arms were well separated, and escalation pathways were relatively clear. While space-based assets performed critical strategic missions, including early warning of ballistic missile launch and secure communications in a crisis, there was a relatively clear sense that these targets were off limits, as attacks could undermine nuclear deterrence. In the Strategic Arms Limitation Treaty, the US and Soviet Union pledged not to interfere with each other‘s ―national technical means‖ of verifying compliance with the agreement, yet another recognition that attacking strategically important satellites could be destabilizing.20 There was also restraint in building the hardware that could hold these assets at risk. However, where the lines between strategic satellite missions and other missions are blurred, these norms can be weakened. For example, the satellites that provide early warning of ballistic missile launch are associated with nuclear deterrent posture, but also are critical sensors for missile defenses. Strategic surveillance and missile warning satellites also support efforts to locate and destroy mobile conventional missile launchers. Interfering with an early warning sensor satellite might be intended to dissuade an adversary from using nuclear weapons first by degrading their missile defenses and thus hindering their first-strike posture. However, for a state that uses early warning satellites to enable a “hair trigger” or launch-on-attack posture, the interference with such a satellite might instead be interpreted as a precursor to a nuclear attack. It may accelerate the use of nuclear weapons rather than inhibit it. Misperception and dual-use technologies Some space technologies and activities can be used both for relatively benign purposes but also for hostile ones. It may be difficult for an actor to understand the intent behind the development, testing, use, and stockpiling of these technologies, and see threats where there are none. (Or miss a threat until it is too late.) This may start a cycle of action and reaction based on misperception. For example, relatively low-mass satellites can now maneuver autonomously and closely approach other satellites without their cooperation; this may be for peaceful purposes such as satellite maintenance or the building of complex space structures, or for more controversial reasons such as intelligence-gathering or anti-satellite attacks. Ground-based lasers can be used to dazzle the sensors of an adversary‘s remote sensing satellites, and with sufficient power, they may damage those sensors. The power needed to dazzle a satellite is low, achievable with commercially available lasers coupled to a mirror which can track the satellite. Laser ranging networks use low-powered lasers to track satellites and to monitor precisely the Earth‘s shape and gravitational field, and use similar technologies. 21 Higher-powered lasers coupled with satellite-tracking optics have fewer legitimate uses. Because midcourse missile defense systems are intended to destroy long-range ballistic missile warheads, which travel at speeds and altitudes comparable to those of satellites, such defense systems also have inherent ASAT capabilities. In fact, while the technologies being developed for long-range missile defenses might not prove very effective against ballistic missiles—for example, because of the countermeasure problems associated with midcourse missile defense— they could be far more effective against satellites. This capacity is not just theoretical. In 2007, China demonstrated a direct-ascent anti-satellite capability which could be used both in an ASAT and missile defense role, and in 2009, the United States used a ship-based missile defense interceptor to destroy a satellite, as well. US plans indicated a projected inventory of missile defense interceptors with capability to reach all low earth orbiting satellites in the dozens in the 2020s, and in the hundreds by 2030.22 Discrimination The consequences of interfering with a satellite may be vastly different depending on who is affected and how, and whether the satellite represents a legitimate military objective. However, it will not always be clear who the owners and operators of a satellite are, and users of a satellite‘s services may be numerous and not public. Registration of satellites is incomplete23 and current ownership is not necessarily updated in a readily available repository. The identification of a satellite as military or civilian may be deliberately obscured. Or its value as a military asset may change over time; for example, the share of capacity of a commercial satellite used by military customers may wax and wane. A potential adversary‘s satellite may have different or additional missions that are more vital to that adversary than an outsider may perceive. An ASAT attack that creates persistent debris could result in significant collateral damage to a wide range of other actors; unlike terrestrial attacks, these consequences are not limited geographically, and could harm other users unpredictably. In 2015, the Pentagon‘s annual wargame**,** or simulated conflict, involving space assets focused on a future regional conflict. The official report out24warnedthatit was hard to keep the conflict contained geographically when using anti-satellite weapons: As the wargame unfolded, a regional crisis quickly escalated, partly because of the interconnectedness of a multi-domain fight involving a capable adversary. The wargame participants emphasized the challenges in containing horizontal escalation once space control capabilities are employedto achieve limited national objectives. Lack of shared understanding of consequences/proportionalityStates havefairly similar understandings of the implications of military actions on the ground, in the air, and at sea,built over decades of experience. The United States and the Soviet Union/Russia have built some shared understanding of each other‘s strategic thinking on nuclear weapons, though this is less true for other states with nuclear weapons. But in the context of nuclear weapons, there is an arguable understanding about the crisis escalation based on the type of weapon (strategic or tactical) and the target (counterforce—against other nuclear targets, or countervalue—against civilian targets). Because of a lack of experience in hostilities that target space-based capabilities, it is not entirely clear what the proper response to a space activity is and where the escalation thresholds or “red lines” lie. Exacerbating this is the asymmetry in space investments; not all actors will assign the same value to a given target or same escalatory nature to different weapons.

#### Nuclear war causes extinction.

Starr 17 (Steven; director of the University of Missouri’s Clinical Laboratory Science Program, senior scientist at the Physicians for Social Responsibility, Associate member of the Nuclear Age Peace Foundation, expert in the environmental consequences of nuclear war; 1/9/17; “Turning a Blind Eye Towards Armageddon — U.S. Leaders Reject Nuclear Winter Studies”; <https://fas.org/2017/01/turning-a-blind-eye-towards-armageddon-u-s-leaders-reject-nuclear-winter-studies/>; Federation of American Scientists; accessed 11/24/18; TV) [AV]

The detonation of an atomic bomb with this explosive power will **instantly ignite fires** over a surface area of three to five square miles. In the recent studies, the scientists calculated that the **blast**, **fire**, and **radiation** from a war fought with 100 atomic bombs could produce **direct fatalities** comparable to all of those worldwide in World War II, or to those once estimated for a “**counterforce**” **nuclear war** between the superpowers. However, the **long-term environmental effects** of the war **could** significantly disrupt the global weather for at least a decade, which would likely **result in** a vast **global famine**. The scientists predicted that **nuclear firestorms** in the burning cities would cause at least five million tons of **black carbon smoke** to quickly rise above cloud level into the stratosphere, where it could not be rained out. The smoke would circle the Earth in **less than two weeks** and would form **a** global **stratospheric smoke layer** that **would remain for** more than **a decade**. The smoke would absorb warming sunlight, which would **heat the smoke** to temperatures near the boiling point of water, producing **ozone losses of** 20 to **50 percent** over populated areas. This would almost double the amount of UV-B reaching the most populated regions of the mid-latitudes, and it would create UV-B indices unprecedented in human history. In North America and Central Europe, the time required to get a painful sunburn at mid-day in June could decrease to as little as six minutes for fair-skinned individuals. As the smoke layer blocked warming sunlight from reaching the Earth’s surface, it would produce the **coldest** average **surface temperatures** in the last 1,000 years. The scientists calculated that global **food production would decrease** by 20 to **40 percent** during a five-year period following such a war. Medical experts have predicted that the shortening of growing seasons and corresponding decreases in agricultural production could cause up to **two billion** people to perish from **famine**. The climatologists also investigated the effects of a nuclear war fought with the vastly more powerful modern **thermonuclear** weapons possessed by the United States, Russia, China, France, and England. Some of the thermonuclear weapons constructed during the 1950s and 1960s were 1,000 times more powerful than an atomic bomb. During the last 30 years, the average size of thermonuclear or “strategic” nuclear weapons has decreased. Yet today, each of the approximately 3,540 strategic weapons deployed by the United States and Russia is seven to **80 times** more powerful than the atomic bombs modeled in the India-Pakistan study. The smallest strategic nuclear weapon has an explosive power of **100,000 tons of TNT**, compared to an atomic bomb with an average explosive power of 15,000 tons of TNT. Strategic nuclear weapons produce much larger nuclear firestorms than do atomic bombs. For example, a standard Russian 800-kiloton warhead, on an average day, will ignite fires covering a surface area of 90 to 152 square miles. A **war** fought with hundreds or thousands of U.S. and Russian strategic nuclear weapons would **ignite immense** **nuclear firestorms** covering land surface areas of many thousands or **tens of thousands** of square miles. The scientists calculated that these fires would produce up to **180 million tons** of black carbon soot and **smoke**, which would form a dense, **global stratospheric smoke layer**. The smoke would remain in the stratosphere for 10 to **20 years**, and it **would block** as much as **70 percent of sunlight** from reaching the surface of the Northern Hemisphere and 35 percent from the Southern Hemisphere. So much sunlight would be blocked by the smoke that the noonday sun would resemble a full moon at midnight. Under such conditions, it would only require a matter of days or weeks for daily minimum **temperatures** to **fall below freezing** in the largest agricultural areas of the Northern Hemisphere, where freezing temperatures would occur every day for a period of between one to more than two years. Average surface temperatures would become colder than those experienced 18,000 years ago at the height of the last Ice Age, and the prolonged cold would cause average rainfall to decrease by up to 90%. Growing seasons would be completely eliminated for more than a decade; it would be **too cold and dark** to grow food crops, **which would doom the** majority of the **human population.** NUCLEAR WINTER IN BRIEF The profound cold and darkness following nuclear war became known as nuclear winter and was first predicted in 1983 by a group of NASA scientists led by Carl Sagan. During the mid-1980s, a large body of research was done by such groups as the Scientific Committee on Problems of the Environment (SCOPE), the World Meteorological Organization, and the U.S. National Research Council of the U.S. National Academy of Sciences; their work essentially supported the initial findings of the 1983 studies. The idea of nuclear winter, published and supported by prominent scientists, generated extensive public alarm and put political pressure on the United States and Soviet Union to reverse a runaway nuclear arms race, which, by 1986, had created a global nuclear arsenal of more than 65,000 nuclear weapons. Unfortunately, this created a backlash among many powerful military and industrial interests, who undertook an extensive media campaign to brand nuclear winter as “bad science” and the scientists who discovered it as “irresponsible.” Critics used various uncertainties in the studies and the first climate models (which are primitive by today’s standards) as a basis to criticize and reject the concept of nuclear winter. In 1986, the Council on Foreign Relations published an article by scientists from the National Center for Atmospheric Research, who predicted drops in global cooling about half as large as those first predicted by the 1983 studies and described this as a “nuclear autumn.”

### FW

#### The standard is maximizing expected wellbeing.

#### Prefer it:

#### 1] Lexical pre-requisite: threats to bodily security preclude the ability for moral actors to effectively act upon other moral theories since they are in a constant state of crisis that inhibits the ideal moral conditions which other theories presuppose

#### 2] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first. Intuitions outweigh—they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why.

#### 3] Extinction comes first!

**Pummer 15** [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

**There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now**, whatever general moral view we adopt**: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war.** How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that **we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world.** According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. **Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here.** If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how **reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people.** Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, **this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake.** **Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter.** Even John Rawls wrote, “**All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.**” **Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view.** **They’d thus imply very strong reasons to reduce existential risk**, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. **Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk.** It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). **To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being.** To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – **suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being**, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But **once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk.** Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. **We should also take into account moral uncertainty.** **What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts?** I’ve just argued that **there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree.** But **even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one** (and 10% sure that one of these other ones is correct), **they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk.** Perhaps most disturbingly still, **even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world.** Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. **It is enough for my claim that there is moral agreement in the relevant sense if**, at least given certain empirical claims about what future lives would most likely be like, **all minimally plausible moral views would converge on the conclusion that we should try to save the world.** While there are some non-crazy **views that place significantly greater moral weight on avoiding suffering than on promoting happiness**, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless **seem to be fairly implausible views.** And **even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve.** Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. **Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast.** We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. **If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period.** Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. **Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.**” (From chapter 36 of On What Matters)

#### 4] Legal and academic engagement is possible and productive—this is not ‘cruel optimism’, it’s putting theory into practice

Kanter 13

Arlene S. Kanter (Professor of Law, Syracuse University), Beth A. Ferri, Righting Educational Wrongs: Disability Studies in Law and Education, 2013, pp. 35-7

Disability studies has emerged within the academy as a new multidisci- plinarv field. It requires us to (re)consider how societv excludes people with disabilities not because of their limitations, but because of the wav in which societv itself is structured and operates. From this viewpoint, it is not as if there are no differences among people who are Deaf or blind or have other impairments, nor does this view deny the suffering, pain, and lack of needed support that many people with disabilities experience. Instead, disabilitv studies allows us to explore how to mitigate or even eliminate the social outcomes of differences with an awareness of the role that power plays in shaping the development of laws and legal rights. Disabilitv legal studies presents to the law and legal education both challenges and opportunities. It challenges legal scholars to view criticallv the place of disabilitv within the legal svstem and the legal academv as well as within society generallv. Viewing law through the lens of disabil- itv studies challenges us to examine disabilitv—like race, gender, class, and sexuality—as a social and political construct derived from a historv Of stigmatization and exclusion. It also challenges us to consider the complex wavs in which our system of laws, government, social structures, institu- tions, culture, and customs contributes to the disablement of persons in our own societv and in societies throughout the world. Disabilitv legal studies also presents opportunities. As part of the larger field of disabilitv studies, disabilitv legal studies provides legal scholars the tools to develop a critique of the law with respect to disabilitv and to explore the role and manifestations of ableism in social practices and insti- tutions that "portray people with disabilities as useless, marginal, abnor- mal, a burden on societv, and perhaps most offensivelv, as living a life that is not worth living" (MOT 69). It also provides the context in which to deconstruct and reconstruct the meaning Of disabilitv through investigat- ing the social construction of disability as well as the power structure that supports and enhances ableism. Disability legal studies does not seek to maintain the status quo. It is "a radical move as it seeks to transform mainstream legal education"

(IMor 2006, 64n4). It provides theoretical tools as well as advocacv strategies to challenge our cultural norms that have resulted in the creation of legal, physical, and attitudinal barriers to inclusion Of people with disabilities in society. As such, it has the potential to expose legal scholars, our students, and the legal academv to new areas of academic inquiry bevond what disabilitv studies itself offers. It adds to the questions posed by disability studies, including: What does it mean to be "normal" for the purpose of legal decision making? How does and should the law respond to differ- ences among us? How can we challenge the privilege afforded to the able- bodied norm within the legal svstem? A first step in responding to these questions is to increase the visibil- itv of people with disabilities within law schools and within the academy itself. In recent vears, more students with disabilities are demanding their place in law schools, but few facultv with disabilities are visible in most law faculties. Further, when students and facultv with disabilities are noticed or discussed on campuses, thev are often portraved as threats or vulnerable victims, but not as valued members Of the academic communitv. Svracuse Universitv has taken steps to change this situation recruit- ing and retaining more students, faculty, and staff with disabilities; by nurturing the development of disabilitv studies programs; and by ing access and acconunodations with the goal of creating a conununitv of inclusion for all. Although we still have a long way to go, such efforts are well worth it. With such changes, our universities, legal institutions, and society as a whole will benefit from the participation of people with dis- abilities in our classrooms, our neighborhoods, and our lives.

#### 5] The judge has an obligation to maximize well-being – Disability does not moot moral claims

Vehmas and Watson 13—Disability Studies at the Universities of Helsinki and Glasgow respectively (Simo and Nick, “Moral wrongs, disadvantages, and disability: a critique of critical disability studies”, Disability & Society (2013), dml)

It is, as Shildrick argues, safe to suggest that there is no ‘single acceptable mode of embodiment’, but at the same time it seems equally safe to suggest that there are a lot of people who would argue that some forms of embodiment are preferential to others. Seeing impairments as acceptable forms of human diversity is not the same as seeing them as neutral or insignificant. When people say that some forms of embodiment are preferential to others, they are ultimately referring to ideas about human well-being. In other words, one reason why people generally prefer not to have impairments is ethical; they believe that some impairments may in and of themselves prevent people from acting and moving as they wish, from doing valued activities, or faring well in general. Thomas (1999) coined the term ‘impairment effects’ to define these limitations and to separate them from those that arise from disablement. CDS is normative as well, albeit its normative focus is on social factors instead of individuals’ abilities. CDS, like the social model, contains a strong normative dimension that implies what is right or wrong as regards social arrangements, but neither model takes a clear normative approach to the lived, embodied and visceral experiences of having an impairment (Vehmas 2004). Human beings are dialogical beings and the significance of disability or impairment and their impact on well-being will tend to be comparative. As Sayer argues: ‘we measure ourselves not so much against absolute standards but against what others are like, particularly those with whom we associate the most’ (2011, 122). Evaluative judgements in relation to the individual experience of both disability and impairment are important. If we are to properly understand social phenomena, such as disability, we have to recognize their normative dimensions and the values attached to them. Value-laden statements, as Sayer (2011) argues, can strengthen the descriptive adequacy of accounts. Sayer demonstrates this by using the example of the Holocaust. This, he says, can be represented in two ways: ‘thousands died in the Nazi concentration camps’ and ‘thousands were systematically exterminated in the Nazi concentration camps’. The latter sentence is not only more value-laden than the first, but more accurate as well (Sayer 2011, 45). We would argue that talking about ableism, disablism or oppression does not make sense without reference to normative judgements about people’s well-being, as without such a discussion only a partial picture will emerge. The same may also apply to judgements about fair social arrangements. CDS does not engage with ethical issues to do with the role of impairment and disability in people’s well-being and the pragmatic and mundane issues of day-to-day living. Imagine, for example, a pregnant woman who has agreed, possibly with very little thought, to the routine of prenatal diagnostics, and who has been informed that the foetus she is carrying has Tay-Sachs disease. She now has to make the decision over whether to terminate the pregnancy or carry it to term. The value judgements that surround Tay-Sachs include the fact that it will cause pain and suffering to the child and he or she will probably die before the age of four. These are morally relevant considerations to the mother. Whilst CDS would probably guide her to confront ableist assumptions and challenge her beliefs about the condition, considerations having to do with pain and suffering are nevertheless morally significant. The way people see things, and the language that is used to describe certain conditions, can affect how they react to them, but freeing oneself from ableist assumptions may not in some cases be enough. There may be insurmountable realities attached to some impairments where parents feel that their personal and social circumstances would not enable them to provide the child or themselves with a satisfactory life (Vehmas 2003). Impairment sometimes produces practical, difficult ethical choices and we need more concrete viewpoints

than the ideas provided through ableism, which offers very little practical moral guidance. It is questionable whether the notion of ableism would help the parents in deciding whether to have a child who has a degenerative condition that results in early death. Campbell (2009a, 39, 149 and 159), for example, discusses arguments about impairments as harmful conditions, the ethics of external bodily transplants as well as wrongful birth and life court cases (whether life with an impairment is preferable to non-existence), and how ableism impacts on discourse around these issues. Whilst her analysis of such ableist discourses suggests ethical judgements, she provides no arguments or conclusions as to whether, for example, external bodily transplants are ethically wrong or whether impairment may or may not constitute a moral harm. Under the anti-dualistic stance adopted by CDS, even the well-being/ill-being dualism becomes an arbitrary and nonsensical construct. Under ableism it can be constructed as merely maintaining the dominance of those seemingly faring well (supposedly, ‘non-disabled’ people), and labels those faring less well as having lesser value. There may not be a clear answer to what constitutes human well-being or flourishing, but in general we can and we need to agree about some necessary elements required for well-being. Also, as moral agents we have an obligation to make judgements about people’s well-being and act in ways that their well-being is enhanced (Eshleman 2009). This is why we have, for example, coronary heart disease prevention programmes because the possible death or associated health problems are seen as harms. Possibly these policies are based on ableist perspective, but if that is the case then the normative use of ableism is null; eradicating supposedly ableist enterprises such as coronary heart disease prevention would be an example of reductio ad absurdum. Denying some aspects of well-being are so clear that their denial would be absurd, and simply morally wrong. CDS raises ethical issues and insinuates normative judgements but does not provide supporting ethical arguments. This is a way of shirking from intellectual and ethical responsibility to provide sound arguments and conceptual tools for ethical decision-making that would benefit disabled people. If we are to describe disability, disablism, and oppression properly, we have to explicate the moral and political wrong related to these phenomena. Whilst CDS has produced useful analyses, for example, of the cultural reproduction of disability, it needs to engage more closely with the evaluative issues inherently related to disability. As Sayer has argued (against Foucault): while one could hardly disagree that we should seek to uncover the hidden and unconsidered ideas on which practices are based, I would argue that critique is indeed exactly about identifying what things ‘are not right as they are’, and why. (Sayer 2011, 244) By settling almost exclusively to analyses of ableism without engaging properly with the ethical issues involved, CDS analyses are deficient. The moral wrongs related to disablism or ableism are matters of great concern to disabled people, and CDS should in its own part take the responsibility of remedying current wrongs disabled people suffer from.