### CP

#### [AFF ACTORS] ought to:

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

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

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

#### Solves the Aff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### DA

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

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

V. MITIGATION VS. REMOVAL

Relying on international law to create an environment conducive to space debris removal initially seems promising. The Virginia school of political economy has convincingly shown the importance of political-legal institutions in creating the incentives that determine whether those who act within those institutions behave cooperatively or predatorily.47 In the context of space debris, the role of nation-states, or their space agencies, would be to create an international legal framework that clearly specifies the rules that will govern space debris removal and the interactions in space more generally. The certainty afforded by clear and nondiscriminatory48 rules would enable the parties of the space debris “social contract” to use efficient strategies for coping with space debris. However, this ideal result is, in practice, far from certain. To borrow a concept from Buchanan and Tullock’s framework,49 the costs of amending the rules in the case of international space law are exceptionally high. Although a social contract is beneficial in that it prevents stronger nation-states from imposing their will on weaker nation-states, it also creates incentives for the main spacefaring nations to block reforms that are overall welfare-enhancing but that do not sufficiently or directly benefit the stronger nations.

The 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (more commonly known as the Outer Space Treaty) is the foundation for current international space law.50 All major spacefaring nations are signatories. Article VIII of this treaty is the largest legal barrier to space debris removal efforts. This article stipulates that parties to the treaty retain jurisdiction over objects they launch into space, whether in orbit or on a celestial body such as the Moon. This article means that American organizations, whether private firms or the government, cannot remove pieces of Chinese or Russian debris without the permission of their respective governments. Perhaps contrary to intuition, consent will probably not be easy to secure.

A major difficulty lies in the realization that much debris is valuable scrap material that is already in orbit. A significant fraction of the costs associated with putting spacecraft in orbit comes from escaping Earth’s gravity well. The presence of valuable material already in space can justifiably be claimed as a valuable resource for repairs to current spacecraft and eventual manufacturing in space. As an example, approximately 1,000 tons of aluminum orbit as debris from the upper stages of launch vehicles alone. Launching those materials into orbit could cost between $5 billion and $10 billion and would take several years.51 Another difficulty lies in the fact that no definition of space debris is currently accepted internationally. This could prove problematic for removal efforts, if there is disagreement as to whether a given object is useless space junk, or a potentially useful space asset. Although this ambiguity may appear purely semantic, resolving it does pose some legal difficulties. Doing so would require consensus among the spacefaring nations. The negotiation process for obtaining consent would be costly.

Less obvious, but still important, is the 1972 Convention on International Liability for Damage Caused by Space Objects, normally referred to as the Liability Convention. The Liability Convention expanded on the issue of liability in Article VII of the Outer Space Treaty. Under the Liability Convention, any government “shall be absolutely liable to pay compensation for damage caused by its space objects on the surface of the Earth or to aircraft, and liable for damage due to its faults in space.”52 In other words, if a US party attempts to remove debris and accidentally damages another nation’s space objects, the US government would be liable for damages. More generally, because launching states would bear costs associated with accidents during debris removal, those states may be unwilling to participate in or permit such efforts. In theory, insurance can partly remediate the costs, but that remediation would still make debris removal engagement less appealing.

A global effort to remediate debris would, by necessity, involve the three major spacefaring nations: the United States, Russia, and China.53 However, any effort would also require—at a minimum—a significant clarification and—at most —a complete overhaul of existing space law.54 One cannot assume that parties to the necessary political bargains would limit parleying to space-related issues. Agreements between sovereign nation-states must be self-enforcing.55 To secure consent, various parties to the change in the international legal-institutional framework may bargain strategically and may hold out for unrelated concessions as a way of maximizing private surplus. The costs, especially the decision-making costs, of changing the legal framework to secure a global response to a global commons problem are potentially quite high.

#### The US will use that opportunity to push Artemis Accords and bilateralization – undermines multilateral space law.

Wall 20 – Senior Space Writer with Space.com, former herpetologist and wildlife biologist, Ph.D. in evolutionary biology from the University of Sydney, Australia; citing Boley (Department of Physics and Astronomy, University of British Columbia, Vancouver) and Byers (Department of Political Science, University of British Columbia, Vancouver)

Mike Wall, 10-8-2020, “US policy could thwart sustainable space development, researchers say,” Space.com, https://www.space.com/us-space-policy-mining-artemis-accords DD

The United States' space policy threatens the safe and sustainable development of the final frontier, two researchers argue.

The U.S. is pushing national rather than multilateral regulation of space mining, an approach that could have serious negative consequences, astronomer Aaron Boley and political scientist Michael Byers, both of the University of British Columbia in Vancouver, write in a "Policy Forum" piece that was published online today (Oct. 8) in the journal Science.

Boley and Byers cite the 2015 passage of the Commercial Space Launch Competitiveness Act, which explicitly granted American companies and citizens the right to mine and sell space resources. That right was affirmed this past April in an executive order signed by President Donald Trump, they note.

The researchers also point to NASA's announcement last month that it intends to buy moon dirt and soil collected by private companies, and its plan to sign bilateral agreements with international partners that want to participate in the agency's Artemis program of crewed lunar exploration.

Artemis, one of NASA's highest-profile projects, aims to return astronauts to the moon in 2024 and establish a long-term, sustainable human presence on and around Earth's nearest neighbor by the end of the decade. Making all of this happen will require the extensive use of lunar resources, such as the water ice that lurks on the permanently shadowed floors of polar craters, NASA officials have said.

Boley and Byers take special aim at the planned bilateral agreements, known as the Artemis Accords. In promoting them, the U.S. "is overlooking best practice with regard to the sustainable development of space," the researchers write.

"Instead of pressing ahead unilaterally and bilaterally, the United States should support negotiations on space mining within the UN [United Nations] Committee on the Peaceful Uses of Outer Space, the same multilateral body that drafted the five major space treaties of the 1960s and '70s," they write in the Science piece. (The most important of the five is the 1967 Outer Space Treaty, which forms the basis of international space law.)

"Meanwhile, NASA’s actions must be seen for what they are — a concerted, strategic effort to redirect international space cooperation in favor of short-term U.S. commercial interests, with little regard for the risks involved," Boley and Byers add.

The researchers worry that the U.S. is setting an unfortunate precedent for other countries to follow, and that space mining and other exploration activities may therefore proceed in a somewhat careless and chaotic fashion in the not-too-distant future.

#### That returns space to might-makes-right imperial conflict.

O’Brien 20 – member of the International Institute of Space Law and founder of The Space Treaty Project, retired attorney and former member of the NASA-Hastings Law Project

Dennis O’Brien, 6-29-2020, “The Artemis Accords: repeating the mistakes of the Age of Exploration,” *The Space Review*, https://www.thespacereview.com/article/3975/1 DD

In the spring of 1493, the King and Queen of Spain sent an envoy to the Pope in Rome. Along with Portugal, Spain had just used its advanced sailing and navigation technology to reach “new worlds,” areas of the Earth that had not been previously discovered by Europeans. But they had a problem: they wanted to establish sovereign property rights in the lands they had discovered, but they weren’t sure they could do so under their own authority. So, they turned to the only international authority in Europe at that time, the Catholic Church, which held sway over governments from Portugal to Poland, from the Arctic to the Mediterranean. If the Church would establish a legal framework that granted them sovereignty, then those nations would be bound to recognize it.[2]

This is the first lesson that the current governments of the world can learn from the Age of Exploration & Empire that began five centuries ago. Even then, the most powerful nation in Europe, with the largest army and most advanced technology, realized that it could not unilaterally establish property rights or any other kind of sovereignty without the approval of an international authority. After the Church granted that authority, Spain was able to create one of the greatest empires in history. Spain and Portugal formalized the arrangement with a binding international agreement, the Treaty of Tordesillas, whose purpose was to ensure peaceful cooperation between their nations, primarily by establishing a line of demarcation that separated their areas of activity.[3]

Unfortunately, the legal framework so established was based on national dominance, not multilateral international cooperation. The grant of sovereignty was exclusive, made only to Spain and Portugal, and it required them to subjugate the “savages” in the lands they discovered by taking along Church missionaries. This exclusivity did not sit well with other nations as they also developed the technologies of exploration; it was one of the reasons many northern European nations joined the Protestant Reformation and rejected the authority of the Pope in Rome. Without a fair and equitable international agreement that honored the interests of emerging states, the Church lost its ability to act as an arbiter between nations.

Even worse, the dominance model set up centuries of conflict among the major powers in Europe. Militant nationalism and economic colonialism became the principles guiding national policy. The result was centuries of war, suffering, and neglect among the major powers and the nations they subjugated. This pattern did not end until the 20th century, when the major powers fought two world wars and finally dismantled their colonial empires: sometimes peacefully, sometimes by force.

By the mid-1960s, most countries on Earth were independent or on their way to becoming so. But a new conflict had started, one that threatened to repeat the mistakes of five centuries earlier. The great powers were once again using their advanced technology to explore new worlds, and the race was on to plant their flag on the Moon first. Under the ancient traditions, the country that did so would have a claim against all others for possession and use of the territory. The Cold War was about to expand into outer space.

But then something wonderful happened. In 1967, the United Nations proposed, and the world’s space powers accepted, an international agreement known as the Outer Space Treaty.[4] The treaty was an intentional effort to avoid the mistakes of the Age of Exploration & Empire. Article I states, “The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.” Article II is even more specific: “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.” Because of this treaty, the United States carried a plaque to the Moon that said, “We came in peace for all mankind.”[5] When the Apollo 11 astronauts planted the US flag, they did so out of pride, but did not establish any claim or national priority.

This legal framework worked well initially, but people soon started wondering about what to do when countries or private entities wanted to start commercial activity on the Moon, or build settlements. The solution was the Moon Treaty, proposed by the United Nations and adopted by enough nations to come into force in 1984.[6] But it has not yet been adopted by any major spacefaring nation. The United States, by a recent executive order, has specifically renounced the treaty and stated its intentions to extract materials from the Moon without any international agreement.[7]

The newly announced Artemis Accords go even further. Although the actual Accords have not been released pending consultation with possible partners, the summary provided by NASA[8] indicates that the United States will unilaterally interpret the Outer Space Treaty to allow “space resource extraction,” despite the prohibition against appropriation in Article II of the Treaty. There will also be “safety zones” to avoid “harmful interference” with such operations. The effect is to establish exclusive economic zones, especially if “harmful interference” is defined to include economic harm, not just safety. Will the new Space Force be used to protect such economic interests? Will other nations be excluded if they support the Moon Treaty?[9] Will private actors be required to follow the same rules as states, as recommended in the recently drafted Moon Village Principles?[10] This is the slippery slope of using unilateral action to establish economic rights rather than an international agreement.

The Artemis Accords acknowledge many beneficial agreements and policies: The Outer Space Treaty, Rescue Agreement, and Registration Convention (though not the Liability Convention); peace, transparency, interoperability, protecting heritage sites and sharing scientific information. But its unilateral authorization of space mining is a continuation of the Trump Administration’s underlying foreign policy strategy: unilateral dominance over international cooperation. The United States has withdrawn from the Paris Accords, the Iranian nuclear deal, and, in the middle of a pandemic, the World Health Organization. Dominance has even become the theme of the administration’s domestic policy, with President Trump recently telling governors, “If you don't dominate, you're wasting your time… You have to dominate.”[11] That core philosophy is now being applied to outer space, as Vice President Mike Pence proudly announced in 2018. Despite the lessons of history, the United States is going full speed ahead with the “dominance” model of space development rather than working with the nations of the world to develop a “cooperation” model. Outer space, which so far has been preserved for peace and cooperation, is about to be spoiled, perhaps forever.

#### Goes nuclear – space conflict is uniquely escalatory.

Farley 22 – PhD, Senior Lecturer at the Patterson School at the University of Kentucky

Robert Farley, 1-9-2022, “Does A Space War Mean A Nuclear War?” 1945, https://www.19fortyfive.com/2022/01/does-a-space-war-mean-a-nuclear-war/ DD

The recent Russian anti-satellite test didn’t tell the world anything new, but it did reaffirm the peril posed by warfare in space. Debris from explosions could make some earth orbits remarkably risky to use for both civilian and military purposes. But the test also highlighted a less visible danger; attacks on nuclear command and control satellites could rapidly produce an extremely dangerous escalatory situation in a war between nuclear powers. James Acton and Thomas Macdonald drew attention to this problem in a recent article at Inside Defense. As Acton and MacDonald point out, nuclear command and control satellites are the connective tissue of nuclear deterrence, assuring countries that they’re not being attacked and that they’ll be able to respond quickly if they are.

For a long time, these strategic early-warning satellites were akin to a center of gravity in ICBM warfare. Nuclear deterrence requires awareness that an attack is underway. Attacks on the monitoring system could easily be read as an attempt to blind an opponent in preparation for general war, and could themselves incur nuclear retaliation. Thus, the nuclear command and control satellites are critical to the maintenance of nuclear deterrence. They make it possible to distribute an order from the chief of government to the nuclear delivery systems themselves. Consequently, their destruction might lead to hesitation or delay in performing a nuclear launch order.

It was only later that the relevance of satellites for conventional warfare became clear. Satellites could reconnoiter enemy positions and, more importantly, provide communications for friendly forces. Indeed, the expansion of the role of satellites in conventional warfare has complicated the prospect of space warfare. States have a clear reason for targeting enemy satellites which support conventional warfare, as those satellites enable the most lethal part of the kill chain, the communications and recon networks that link targets with shooters. Thus, we now have a situation in which space military assets have both nuclear and conventional roles. In a conflict confusion and misperception could rapidly become lethal. If one combatant views an attack against nuclear command and control as a prelude to a general nuclear attack, it might choose to pre-empt.

Nuclear powers have dealt with problems in this general category for a good long while; would a conventional attack against tactical nuclear staging areas represent an escalation, for example? Would the use of ballistic missiles that can carry either conventional or nuclear weapons trigger a nuclear response? Do attacks against air defense networks that have both strategic and tactical responsibilities run the risk of triggering a nuclear response? There’s also the danger that damage to communications networks designated for conventional combat could force traffic onto the nuclear control systems, further confusing the issue.

No one has ever fought a nuclear war, and no two nuclear powers have engaged in a prolonged, high-intensity conventional conflict. Now that conventional systems have become implicated in space technologies for reconnaissance, targeting, and communications, leaders will have to make very difficult, very careful decisions on what enemy capabilities they want to disrupt. Acton and MacDonald propose a straightforward ban on attacks against nuclear satellite infrastructure, which would also require agreement to keep nuclear and conventional communications networks separate. This is the little ask; countries should plan to fight more carefully. The big ask is for a multilateral ban to prevent future anti-satellite weapons tests in space. This would reduce the danger that debris could close off, temporarily or permanently, human access to certain locations in earth orbit. But given that countries use satellites for the conduct of conventional military operations, it’s a lot to ask for warfighters to consider critical military infrastructure off-limits in any particular conflict.

### NC

#### The meta ethic is consistency with empiricism. Prefer-

#### 1] Non-natural moral facts are epistemically inaccessible

Papinau ’07 (David [David Papineau is an academic philosopher. He works as Professor of Philosophy of Science at King's College London, having previously taught for several years at Cambridge University and been a fellow of Robinson College, Cambridge], “Naturalism”. [http://plato.stanford.edu/entries/naturalism/](http://plato.stanford.edu/entries/naturalism/)) 2007)

Moore took this argument to show that moral facts comprise a distinct species of non-natural fact. However, any such non-naturalist view of morality faces immediate difficulties, deriving ultimately from the kind of causal closure thesis discussed above. If **all physical effects are due to a limited range of natural causes, and if moral facts lie outside this range, then it follow that moral facts can never make any difference to what happens in the physical world** (Harman, 1986). At first sight **this** may seem tolerable (perhaps moral facts indeed don't have any physical effects). But it **has** **very awkward epistemological consequences.** For beings like us, **knowledge of the spatiotemporal world is mediated by physical processes involving our sense organs and cognitive systems. If moral facts cannot influence the physical world, then [we can’t] it is hard to see how we can have any knowledge of them.**

#### 2] Bindingness- only pursuing pleasure and avoiding pain can motivate action consistently- no external system of ethics has anything intrinsic that dictate it be followed. Chemical and biological responses to certain experiences provide objective markers of pleasure and pain while maximizing deontological ethical principles are unverifiable.

#### Thus, the standard is maximizing expected utility. tO clarify, minimizing death. Prefer-

#### 1] Pleasure/pain is intrinsically valuable

**Moen 16** [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] SJDI

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

#### 2] Extinction must be relevant given inevitable moral uncertainty

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)

#### 3] Phenomenal introspection --- it’s the most epistemically reliable --- historical moral disagreement over internal conceptions of morality such as questions of race, gender, class, religion, etc prove the fallibility of non-observational based ethics --- introspection means we value happiness because we can determine that we each value it --- just as I can observe a lemon’s yellowness, we can make those judgements about happiness.

#### 4] Substitutability—only consequentialism explains necessary enablers.

**Sinnott-Armstrong 92** [Walter, professor of practical ethics. “An Argument for Consequentialism” Dartmouth College Philosophical Perspectives. 1992.]

**A moral reason to do an act is consequential if and only if the reason depends only on the consequences of either doing the act or not doing the act.** For example, a moral reason not to hit someone is that this will hurt her or him. A moral reason to turn your car to the left might be that, if you do not do so, you will run over and kill someone. A moral reason to feed a starving child is that the child will lose important mental or physical abilities if you do not feed it. All such reasons are consequential reasons. All other moral reasons are non-consequential. Thus, **a moral reason** to do an act **is non-consequential if** and only if **the reason depends even partly on some property that the act has independently of its consequences. For example, an act can be a lie regardless of what happens as a result of the lie** (since some lies are not believed), and some moral theories claim that that property of being a lie provides amoral reason not to tell a lie regardless of the consequences of this lie. Similarly, the fact that an act fulfills a promise is often seen as a moral reason to do the act, even though the act has that property of fulfilling a promise independently ofits consequences. All such moral reasons are non-consequential. In order to avoid so many negations, I will also call them 'deontological'. This distinction would not make sense if we did not restrict the notion of consequences. If I promise to mow the lawn, then one consequence of my mowing might seem to be that my promise is fulfilled. One way to avoid this problem is to specify that the consequences of an act must be distinct from the act itself. My act of fulfilling my promise and my act of mowing are not distinct, because they are done by the same bodily movements.10 Thus, my fulfilling my promise is not a consequence of my mowing. A consequence of an act need not be later in time than the act, since causation can be simultaneous, but the consequence must at least be different from the act. Even with this clarification, it is still hard to classify some moral reasons as consequential or deontological,11 but I will stick to examples that are clear. In accordance with this distinction between kinds of moral reasons, I can now distinguish different kinds of moral theories. I will say that **a moral theory is consequentialist if and only if it implies that all basic moral reasons are consequential. A moral theory is then non-consequentialist or deontological if it includes any basic moral reasons which are not consequential**. 5. Against Deontology So defined, the class of deontological moral theories is very large and diverse. This makes it hard to say anything in general about it. Nonetheless, I will argue that no deontological moral theory can explain why moral substitutability holds. My argument applies to all deontological theories because it depends only on what is common to them all, namely, the claim that some basic moral reasons are not consequential. Some deontological theories allow very many weighty moral reasons that are consequential, and these theories might be able to explain why moral substitutability holds for some of their moral reasons: the consequential ones. But even these theories cannot explain why moral substitutability holds for all moral reasons, including the non-consequential reasons that make the theory deontological. The failure of deontological moral theories to explain moral substitutability in the very cases that make them deontological is a reason to reject all deontological moral theories. I cannot discuss every deontological moral theory, so I will discuss only a few paradigm examples and show why they cannot explain moral substitutability. After this, I will argue that similar problems are bound to arise for all other deontological theories by their very nature. The simplest deontological theory is the pluralistic intuitionism of Prichard and Ross. Ross writes that, when someone promises to do something, 'This we consider obligatory in its own nature, just because it is a fulfillment of a promise, and not because of its consequences.'12 Such deontologists claim in effect that, **if I promise to mow the grass, there is a moral reason for me to mow the grass, and this moral reason is constituted by the fact that mowing the grass fulfills my promise.** This reason exists regardless of the consequences of mowing the grass, even though it might be overridden by certain bad consequences. **However**, if this is why I have a moral reason to mow the grass, then, even **if I cannot mow the grass without starting my mower, and starting the mower would enable me to mow the grass, it still would not follow that I have any moral reason to start my mower, since I did not promise to start my mower**, and starting my mower does not fulfill my promise. Thus, **a moral theory cannot explain** moral **substitutability if it claims that properties** like this **provide moral reasons.**

### CP

#### Counterplan: States ought to establish a governing authority to distribute property to private entities as outlined in Babcock 21.

#### That solves state of nature and property, Babcock 21

[Hope M. Babcock, 29 October 2021, "22 - Using the Public Trust Doctrine to Manage Property on the Moon", Cambridge University Press, https://www.cambridge.org/core/books/abs/cambridge-handbook-of-commons-research-innovations/using-the-public-trust-doctrine-to-manage-property-on-the-moon/18298C56686CA8A396517AB8D217666E, date accessed 1-25-2022] //Lex AT

Having a lottery or an auction of “ownership rights,” or establishing a system of tradable credits might lessen the equity and technical problems with the economic zone management proposal. While an auction theoretically would open up the market in development rights to non spacefaring nations, in practice, only the wealthy nations would be able to effectively bid on and secure those rights.58 However, the idea of tradable credits might work.59 Under an outer space trading system, participant nations, regardless of their space faring capacity, would be allotted a fixed number of resource development credits, allowing the credit holder to extract a certain tonnage of materials or develop a fixed amount of celestial surface, during a specified time period.60 The credits could apply to the amount of the resource a participant was allowed to extract, regardless of location, or could be tied to a particular area of a celestial body. Participants could buy credits from and sell them to other participants.61 The proposal would allow developing nations to benefit from space exploration and exploitation, and participants would run the market reducing the need for an administering international agency. Even though market participants would run the market, an international institution will be needed to allocate tradable credits and devise an allocation methodology that assures non-spacefaring nations receive some benefit. International oversight also will be needed to ensure that nations do not exceed their allotted credits. And tradable credits would need to be anchored by some form of authorization, like a permit, creating another need for a central administrative body. While the idea of tradable development credits is consistent with international law, could assure equitable distribution of the benefits of space development, and provide sufficient incentives for development of these resources, the approach may be too administratively encumbered. The public trust doctrine offers another approach for managing an open access commons. 62 Under this doctrine, the sovereign holds certain common properties in trust in perpetuity for the free and unimpeded use of the general public. The public’s right of access to and use of trust resources is never lost, and neither the government nor private individuals can alienate or otherwise adversely affect those resources unless for a comparable public purpose. Showing its adaptability, supporters of the doctrine are currently arguing in court that it applies to the atmosphere.63 The doctrine places on governments an affirmative, ongoing duty to safeguard the perpetual preservation of trust resources for the benefit of the general public, limiting the sovereign’s power on behalf of both present and future entities. It directs the government not to manage them for private gain and applies to private as well as public resources. Uses of trust resources that are inconsistent with the doctrine can be rescinded. The doctrine effectively places a permanent easement over trust resources that burdens their ownership with an overriding public interest in their preservation. Thus, the public trust doctrine protects the “people’s common heritage,” 64 just as the Moon Treaty protects outer space as part of the common heritage of mankind. A doctrine that imposes an enforceable perpetual duty on the sovereign to preserve trust resources, prevents their alienation for private benefit, and assures public access to them seems a particularly apt property management tool in outer space. The fact that public access to trust resources is so central to the doctrine65 is consistent with international space law’s open access principles. It avoids the problems of alienation and exclusion associated with private property management approaches and does not require the creation of a new administrative authority, as anyone can invoke the doctrine. Of all the management approaches discussed, the public trust doctrine seems the most suited to managing property in outer space. However, the doctrine provides no incentives for development of trust resources.66 Its traditional use has been to curtail development, making it potentially a counter productive solution to the beneficial development of outer space. Allowing limited use of private property management approaches, like tradable development credits, might buffer that effect – a form of overlapping hybridity67 between one type of property, a commons, and a management regime from another, private property, enabled by application of the public trust doctrine. This approach might allow development of outer space, while assuring that it will not just be profitable for a few; rather, space’s development will be sustainable and equitable, ideally for all.

## Case

### AFC

#### 7. Nonideal theory is necessary—even Korsgaard concedes extinction justifies moral loopholes

Korsgaard PhD 02 [Christine, PhD in Philosophy, works at Harvard] “Internalism and the Sources of Normativity” RE

But actions are also events in the world (or correspond to events in the world, at least), and they too have consequences. There are a number of different ways in which one can deal with worries about what happens to the consequences in Kant’s ethical theory. It is worth pointing out that Kant himself not only did not ignore the consequences, but took the fact that good actions can have bad effects as the starting point for his religious philosophy. In his religious thought, Kant was concerned with the question how the moral agent has to envision the world, how he has to think of its metaphysics in order to cope with the fact that the actions morality demands may have terrible effects that we never intended, or may simply fail to have good ones. I myself see the development of what Rawls has called “nonideal theory” to be the right way of taking care of a certain class of cases, in which the consequences of doing the right thing just seem too appalling for us to simply wash our hands of. But I do not want to say that just having bad consequences is enough to put an action into the realm of nonideal theory. I think there is a range of bad consequences that a decent person has to be prepared to live with, out of respect for other people’s right to manage their own lives and actions, and to contribute to shared decisions. But I also think that there are cases where our actions go wrong in such a way that they turn out in a sense not to be the actions we intended to do, or to instantiate the values we meant them to instantiate. I think that some of these cases can be dealt with by introducing the kind of double-level structure into moral philosophy that I have described in the essay on “The Right to Lie: Kant on Dealing with Evil.”3 But I also think there are cases that cannot be domesticated even in this way, cases in which, to put it paradoxically, the good person will do something “wrong.” I have written about that sort of case too, in “Taking the Law into Our Own Hands: Kant on the Right to Revolution.”4

#### 8. Shmagency objection

Enoch ’11 (David, studied law and philosophy in Tel Aviv University, where he earned his B.A. and LL.B. in 1993, earned Ph.D. in phil @ the NYU Philosophy Department, “Shmagency revisited”, In Michael Brady (ed.), New Waves in Metaethics, Palgrave Macmillan, 2011) PO

If it can be defended, then, constitutivism promises to yield significant payoffs3. But constitutivism seems to be subject to a powerful objection. For agents need not care about their qualifications as agents, or whether some of their bodily movements count as actions. They can, it seems, be perfectly happy being shmagents – non-agent things that lack the thing purportedly constitutive of agency, but that are as similar to agents as is otherwise possible – or perhaps being something else altogether. If so, constitutivism cannot make good on its promises: For when Korsgaard replies to the agent who asks, say, "Why should I care about the hypothetical and categorical imperatives?" with "Well, otherwise you wouldn't even count as an agent, you wouldn't even be in the game of performing actions.", the skeptic can discard this reply with a simple "So-what?". What is it to her, as it were, if she qualifies as an agent or not? She would be analogous not to the chess-player who asks why she should play according to the rules, but to someone who enjoys the aesthetic qualities of (what we call) the chess board and pieces. If we tell this person that he must not move his king to a certain position because it's against the rules, and if he breaks them he won't count as playing chess, he can shrug us off with a simple "So-what?". He doesn’t care whether his manipulation of the chess pieces qualifies as chess-playing. And at this point the objectivity Velleman hopes for also collapses, because the practical reasons whose objectivity Velleman wants to secure will not reach the person who is happy being a shamgent-rather-than-an-agent, or perhaps something else entirely. The general point here is that the status of being constitutive of agency does not suffice for a normatively non-arbitrary status. Of course, if there were some independent reason to be an agent (for instance, rather than a shmagent), or to perform actions, this objection would go away. But the price would be too high, for such an independent reason – one not accounted for by the constitutivist story, but rather presupposed by it – would make it impossible for constitutivism to be the whole, or the most foundational, account of normativity, or to deliver on its promised payoffs.

### Framework – LBL

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

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

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

By hypothesis, however, B did not have a right to R, because no one had a right to it—it was unowned, after all. So B was not wronged and could not have been. In fact, the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. The same thing, by extension, will be true of all unowned resources: it is only after some- one has initially acquired them that anyone could unjustly come to possess them, via unjust transfer. It is impossible, then, for there to be any injustices in initial acquisition.7