# 1AC—shell

## Part 1: Burdens

#### I affirm the resolution--

#### The aff burden is to prove that space appropriation is inconsistent with legal norms, the neg burden is the inverse:

#### 1] Five dictionaries define just as legally correct, lawful[[1]](#footnote-1) that means the correct interpretation of the topic is one of legality—semantics comes first A] it’s the only stasis point of debate B] makes pre-round prep predictable C] treat this a syllogism proving our framework true

#### Even if they re-define just as an ethical obligation ought is defined as consistency with legal norms.

Kelsen (Hans Kelsen, “On the Pure Theory of Law,” Israel Law Review, January 1966)

That it is a "pure" theory of law means: in the first place, that it avoids the erroneous identification of the validity of the law with its effectiveness. By avoiding this identification the Pure Theory of Law geparates jurisprudence as a theory of law from all sciences--natural or social sciences-which describe facts by assertions that under certain conditions certain consequences actually take place. These assertions are is-statements; and the connection between the condition and the consequence has the character of causality. The statements by which a theory of law describes its object: namely **legal norms**, which are not facts but the meaning of facts, **are ought-statements**. They indicate that under certain conditions certain consequences-the sanctions-ought to take place. It is important to note that **the term "ought" may be used** not only in a prescriptive sense-as in a norm-but also **in a descriptive sense**-as in an assertion about a norm. The science of law **describing,** e.g. the **legal norm** concerning murder does not say: "if a man commits murder, he will be punished", but: "if a man commits**murder**, he **ought to be punished."** In this statement the term "ought" has a descriptive sense; and the connection be- tween the condition and the consequence has not the character of causality but of imputation. The sanction is not the effect of the delict as its cause, but the sanction is "imputed" to the delict. This imputation is constituted by the legal norm as the meaning of an act of will, whereas the connection be- tween cause and effect is independent of any act of human or superhuman will.

#### 2] Reciprocal ground—it’s a 1:1 ratio on ground, I have to prove it illegal, and you have to prove it legal. Reciprocity controls the internal link to fairness, if the round is not reciprocal than we don’t have an equal chance at a ballot.

#### 3] Debatability—discussions of abstract moral principles and unlikely extinction scenarios is impossible to evaluate, since judges will be bias to what they already believe but the legality of an issue is a binary and simple.

#### 4] Its best for education Learning about the law spills over into all other forms of education. Virgo (Graham Virgo, *Why Study Law at University if I don't want to become a lawyer,* University of Cambridge, Faculty of Law)One of the real benefits of studying Law at university is that the law is not taken at face value as something which is unchanging, but rather is something which can moulded and developed. This may be through careful interpretation of the rules or through careful assessment of old precedents to see how they can be applied to new problems. But Law students also engage in discussions and thinking about more radical reform of the law. Law students are encouraged to reflect on the law, to think critically about the law, to consider whether the law is satisfactory, to identify the policies which underpin particular rules and to suggest alternatives. Law is consequently a very important and useful subject for students to study if they are interested in questions of justice, rights, social policy and law reform. 4. Intellectual engagement Finally, students who study Law at University engage in an academic discipline with a very long pedigree. They discuss the work of ancient philosophers and modern theorists [and]; they examine the meaning of justice; they consider the operation of financial markets, corporations and commerce; they engage with the operation of law in a European and global arena; they analyse social policy and change.

#### That is a pre-req to any K, we need to understand the law to be able to change the critique it.

#### 5] ABC: A] there is a 6-7, 4-6, time skew that lets the neg spread out the aff in every debate by introducing multiple layers that I must respond too—forcing the debate to one layer gives me a winning ballot B] the burden uplayers and frames out every other argument in the debate—A] its k2 minimizing timeskew B] logic—the burden is the starting point of debate because its how we structure cases, come up with strategy etc. C] I cant cut cards that conform to their burden in 4 minutes of prep

#### 6] And appropriation[[2]](#footnote-2) is defined as the act of taking or using something especially in a way that is illegal, unfair, etc.

#### 7] Consequences don’t matter:

#### A] Induction Fails – You only know induction works because past experiences have told you it has, but that is induction, so you use induction to prove induction – that’s circular

#### B] Culpability – any consequence can lead to another consequence so it’s impossible to assign obligations since you can’t pinpoint an actor that causes a consequence

#### C] Illogical—they can’t prove the burden true through consequences

## Part 2: Legality

#### I affirm that the whole res – “The appropriation of outer space by private entities is unjust.” Cx checks all T and theory, solves shells on aff abuse and incentivizes substance over friv theory dumps. I’ll defend the res as a general principle as per NSDA rules –

**NSDA 21** [2021-22 Lincoln-Douglas Ballot, https://www.speechanddebate.org/wp-content/uploads/Sample-Lincoln-Douglas-Debate-Ballot-Blank.pdf]

Each debater has the burden to prove their side of the resolution more valid as a general principle. It is unrealistic to expect a debater to prove complete validity or invalidity of the resolution. The better debater is the one who, on the whole, proves their side of the resolution more valid as a general principle.

#### To clarify, we don’t defend implementation – the wording of the res isnt a question of the hypothetical implementation of the plan it’s a descriptive claim of justice, which implies the burden of the aff is only to defend the truth of the res in general which justifies our interpretation of debate.

Webster ND Definition of IS," Merriam Webster, <https://www.merriam-webster.com/dictionary/is> IS

is Definition of is (Entry 1 of 4) present tense third-person singular of BE dialectal present tense first-person and third-perso singular of BE dialectal present tense plural of BE

#### Dialectical present tense means logical coherence which implies no implementation

Your Dictionary ND, , "Dialectical Meaning," No Publication, <https://www.yourdictionary.com/dialectical> Cho

The definition of dialectical is a discussion that includes logical reasoning and dialogue, or something having the sounds, vocabulary and grammar of a specific way of speaking. An example of something dialectical is a Lincoln Douglass style of debate, where both parties argue a point in a logical order. Of, or pertaining to dialectic; logically reasoned through the exchange of opposing ideas.

#### “BE” is a linking verb, not an action verb so implementation is incoherent

Grammar Monster ND "Linking Verbs," Grammar Monster, <https://www.grammar-monster.com/glossary/linking_verbs.htm> CHO

What Are Linking Verbs? (with Examples) A linking verb is used to re-identify or to describe its subject. A linking verb is called a linking verb because it links the subject to a subject complement (see graphic below). Infographic Explaining Linking Verb A linking verb tells us what the subject is, not what the subject is doing. Easy Examples of Linking Verbs In each example, the linking verb is highlighted and the subject is bold. Alan is a vampire. (Here, the subject is re-identified as a vampire.) Alan is thirsty. (Here, the subject is described as thirsty.)

#### Private appropriation of outer space is denied under the OST

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Fabio Tronchetti (International Institute of Air and Space Law, Leiden University, The Netherlands). “The Non-Appropriation Principle Under Attack: Using Article II of The Outer Space Treaty In Its Defence.” 50 PROC. L. OUTER SPACE 526, 530 (2007). JDN. <https://iislweb.org/docs/Diederiks2007.pdf>

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 ways 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 3 and to create the conditions and premises for an exploration and use of outer space carried out for the benefit of all States, would be betrayed. Therefore, the need to protect the non-appropriative nature of outer space emerges in all its relevance.

## Part 3: Space Race

#### Space weaponization is constrained by the OST now, but private appropriation of outer space causes a shift from militarization to weaponization of space by militaries to protect commercial interests – that sparks global arms racing, and conflict.

**Finkelstein and Nevitt 18** Claire Finkelstein, Claire Finkelstein is the Algernon Biddle Professor of Law and Professor of Philosophy, and director of the Center for Ethics and the Rule of Law at the University of Pennsylvania. Mark Nevitt is the Sharswood Fellow at University of Pennsylvania Law School. "Trump risks leading the world into a space arms race." TheHill, 21 Aug. 2018, thehill.com/opinion/national-security/402640-trump-risks-leading-the-world-into-a-space-arms-race. [Quality Control]

A motive might be sought in the potentially profitable commercial ventures in outer space, such as asteroid mining, for which the president has voiced support. The president may imagine that a Space Force is the way to gain control over and protect the valuable assets involved. However, this way of thinking is risky. Currently, outer space is “militarized” but not yet “weaponized.” Militaries around the globe make heavy use of satellite technology — such as surveillance and global positioning — but so far they have refrained from placing weapons on satellites in outer space or using them directly for warfighting. The administration’s ad hoc push for space dominance risks upsetting a delicate balance: space now hovers precariously at the brink of weaponization and it would take only one major country defecting from the current system of peaceful self-constraint to drive us into a major arms race in outer space. The current peaceful equipoise is largely because of the remarkable success of the 1967 Outer Space Treaty, an international agreement with which more than 100 signatory countries have been compliant. Under this treaty, space is considered a “province of mankind” that is not owned or controlled by any single nation. Article IV of the treaty provides that celestial bodies be used “for peaceful purposes only,” and objects in orbit carrying nuclear or weapons of mass destruction are strictly prohibited. Article II of the treaty makes clear that outer space “is not subject to national appropriation by claim of sovereignty.” Seeking military dominance in space, coupled with encouraging appropriation of space for commercial purposes, puts us at loggerheads with our traditional allies, upsets stable and well-established treaty obligations, and moves the world closer to a highly dangerous arms race in outer space. It is important to distinguish the idea of a Space Force from the pursuit of military and economic superiority in space. There may not be anything intrinsically wrong with the idea of a Space Force, or in somewhat more moderate form, a “Space Corps,” similar to the Marine Corps, or a “Space Command,” as Congress has called for in the 2019 National Defense Authorization Act, which President Trump signed into law last Monday. The merits of a stand-alone space unit depend on how its mission is conceived and how it fits into broader U.S. policy objectives in outer space, but a thoughtful, coherent and measured inter-agency space policy has yet to emerge. The danger comes from the aim of dominance, not the particular way in which dominance is sought. In addition to potentially touching off an arms race of planetary proportions, there could be an economic race over space resources, comparable to the emerging fight over the Arctic or over deep-sea fishing rights. The combination of space weaponization and space commercialization easily could thrust us into a new cold war (or worse). A hot war in outer space is unthinkable, and we cannot let it occur.

#### Space conflicts go nuclear

**Grego 15** [LAURA GREGO is a physicist in the Global Security program at UCS. She is an expert in space weapons and security; ballistic missile proliferation; and ballistic missile defense. "Preventing Space War." https://allthingsnuclear.org/lgrego/preventing-space-war]

So says a very good New York Times editorial “Preventing a Space War” this week. Sounds right, if X-Wing fighters come to mind when you think space conflict. But in reality conflict in space is both more likely than one would think and less likely to be so photogenic. Space as a locus of conflict The Pentagon has known that space could be a flash point at least since the late 1990s when it began including satellites and space weapons in earnest as part of its wargames. The early games revealed some surprises. For example, attacking an adversary’s ground-based anti-satellite weapons before they were used could be the “trip wire” that starts a war: in the one of the first war games, an attack on an enemy’s ground-based lasers was meant to defuse a potential conflict and protect space assets, but instead was interpreted as an act of war and initiated hostilities. The games also revealed that disrupting space-based communication and information flow or “blinding” could rapidly escalate a war, eventually leading to nuclear weapon exchange. The war games have continued over the years with increased sophistication, but continue to find that conflicts can rapidly escalate and become global when space weapons are involved, and that even minor opponents can create big problems. The report back from the 2012 game, which included NATO partners, said these insights have become “virtually axiomatic.” Participants in the most recent Schriever war games found that when space weapons were introduced in a regional crisis, it escalated quickly and was difficult to stop from spreading. The compressed timelines, the global as well as dual-use nature of space assets, the difficulty of attribution and seeing what is happening, and the inherent vulnerability of satellites all contribute to this problem. Satellite vulnerability & solutions Satellites are valuable but, at least on an individual basis, physically vulnerable. Vulnerable in that they are relatively fragile, as launch mass is at a premium and so protective armor is too expensive, and a large number of low-earth-orbiting satellites are no farther from the earth’s surface than the distance from Boston to Washington, DC.

## Part 4: Truth

#### 1] Permissibility and presumption affirm

#### A] permissibility affirms – 1] if all moral statements are permissible then so is voting aff 2] having to prove an obligation for every moral action freezes action because you cant do things like drink water 3] 7-6-4-3 time skew means if I had more time I’d be better able to prove my moral theory or my offense – applies to both permissibility and presumption

#### B] presumption affirms – 1] presume statements true until proven false IE if I told you my name you’d believe me 2] correct for cognitive status quo bias – you’re afraid of change which means there’s probably more offense then you think 3] cross apply time skew

#### 2] The role of the ballot is to vote for the debater who best proves the truth or falsity of the Resolution; the aff must prove it true and the neg must prove it false.

#### That truth should be determined contextualized to an index

Reichardt, Reichardt, Bastian. "Studies in Logic, Grammar, and Rhetoric." University Bonn (n.d.): n. pag. Print.//Scopa Second-Order Moral Relativism is a statement about the indexicality of moral truth. **A sentence like “Polygamy is morally wrong” is not true *simpliciter* but rather** **true relative to a given moral frame** of reference and false relative to another one. By **indexing moral truth** relativists **do[es] not assume that moral disagreements are contradictions.** If a moral sentence is true relative to one frame of reference and false to another one, then people from these different cultures do not contradict each other. **Just like the sentence that an object is moving might be true relative to one frame of reference and false to another one is not a contradiction but a valid consequence** from the special theory of relativity.

#### Prefer for resolvability – any other interpretation of truth causes infinite regress because I can always ask for an index for your index – IE if the res is better under the index of Kant I can ask Kant – if Kant is better under the index of regress I can ask why regress, etc

#### Prefer: [A] Text: Five dictionaries[[3]](#footnote-3) define to negate as to deny the truth of and affirm[[4]](#footnote-4) as to prove true which means the sole judge obligation is to vote on the resolution’s truth or falsity. Any other role of the ballot enforces an external norm on debate, but only truth testing is intrinsic to the process of debate i.e. proving statements true or false through argumentation. Constitutivism outweighs because you don’t have the jurisdiction not to truth test.

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1. <https://www.law.cornell.edu/wex/justice>

   <https://www.thefreedictionary.com/just>

   <https://www.vocabulary.com/dictionary/just>

   <https://www.dictionary.com/browse/just>

   https://www.merriam-webster.com/dictionary/just [↑](#footnote-ref-1)
2. <https://www.merriam-webster.com/dictionary/appropriation> [↑](#footnote-ref-2)
3. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-3)
4. *Dictionary.com – maintain as true, Merriam Webster – to say that something is true, Vocabulary.com – to affirm something is to confirm that it is true, Oxford dictionaries – accept the validity of, Thefreedictionary – assert to be true* [↑](#footnote-ref-4)