### 1NC—1

#### Interpretation: “appropriation of outer space” by private entities refers to the exercise of exclusive control of space.

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“Appropriation of outer space, therefore, is ‘the exercise of exclusive control or exclusive use’ with a sense of permanence, which limits other nations’ access to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

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#### Appropriation is permanent occupation not temporary use

Marshall 82 [JUSTICE MARSHALL delivered the opinion of the Court. Loretto v. Teleprompter Manhattan CATV Corp., 458 US 419 - Supreme Court 1982] TDI

Since these early cases, this Court has consistently distinguished between flooding cases involving a permanent physical occupation, on the one hand, and cases involving a more temporary invasion, or government action outside the owner's property that causes consequential damages within, on the other. A taking has always been found only in the former situation. See United States v. Lynah, 188 U. S. 445, 468-470 (1903); Bedford v. United States, 192 U. S. 217, 225 (1904); United States v. Cress, 243 U. S. 316, 327-328 (1917); Sanguinetti v. United States, 264 U. S. 146, 149 (1924) (to be a taking, flooding must "constitute an actual, permanent invasion of the land, amounting to an appropriation of, and not merely an injury to, the property"); United States v. Kansas City Life Ins. Co., 339 U. S. 799, 809-810 (1950). In St. Louis v. Western Union Telegraph Co., 148 U. S. 92 (1893), the Court applied the principles enunciated in Pumpelly to a situation closely analogous to the one presented today. In that case, the Court held that the city of St. Louis could exact reasonable compensation for a telegraph company's placement of telegraph poles on the city's public streets. The Court reasoned: "The use which the [company] makes of the streets is an exclusive and permanent one, and not one temporary, shifting and in common with the general public. The ordinary traveler, whether on foot or in a vehicle, passes to and fro along the streets, and his use and occupation 429\*429 thereof are temporary and shifting. The space he occupies one moment he abandons the next to be occupied by any other traveller. . . . But the use made by the telegraph company is, in respect to so much of the space as it occupies with its poles, permanent and exclusive. It as effectually and permanently dispossesses the general public as if it had destroyed that amount of ground. Whatever benefit the public may receive in the way of transportation of messages, that space is, so far as respects its actual use for purposes of highway and personal travel, wholly lost to the public. . . . ..... ". . . It matters not for what that exclusive appropriation is taken, whether for steam railroads or street railroads, telegraphs or telephones, the state may if it chooses exact from the party or corporation given such exclusive use pecuniary compensation to the general public for being deprived of the common use of the portion thus appropriated." Id., at 98-99, 101-102 (emphasis added).[6] Similarly, in Western Union Telegraph Co. v. Pennsylvania R. Co., 195 U. S. 540 (1904), a telegraph company constructed and operated telegraph lines over a railroad's right of way. In holding that federal law did not grant the company the right of eminent domain or the right to operate the lines absent the railroad's consent, the Court assumed that 430\*430 the invasion of the telephone lines would be a compensable taking. Id., at 570 (the right-of-way "cannot be appropriated in whole or in part except upon the payment of compensation"). Later cases, relying on the character of a physical occupation, clearly establish that permanent occupations of land by such installations as telegraph and telephone lines, rails, and underground pipes or wires are takings even if they occupy only relatively insubstantial amounts of space and do not seriously interfere with the landowner's use of the rest of his land. See, e. g., Lovett v. West Va. Central Gas Co., 65 W. Va. 739, 65 S. E. 196 (1909); Southwestern Bell Telephone Co. v. Webb, 393 S. W. 2d 117, 121 (Mo. App. 1965). Cf. Portsmouth Harbor Land & Hotel Co. v. United States, 260 U. S. 327 (1922). See generally 2 J. Sackman, Nichols' Law of Eminent Domain § 6.21 (rev. 3d ed. 1980).[7] More recent cases confirm the distinction between a permanent physical occupation, a physical invasion short of an occupation, and a regulation that merely restricts the use of property. In United States v. Causby, 328 U. S. 256 (1946), the Court ruled that frequent flights immediately above a landowner's property constituted a taking, comparing such overflights to the quintessential form of a taking: "If, by reason of the frequency and altitude of the flights, respondents could not use this land for any purpose, their loss would be complete. It would be as complete as if the United States had entered upon the surface of the land and taken exclusive possession of it." Id., at 261 (footnote omitted). 431\*431 As the Court further explained, "We would not doubt that, if the United States erected an elevated railway over respondents' land at the precise altitude where its planes now fly, there would be a partial taking, even though none of the supports of the structure rested on the land. The reason is that there would be an intrusion so immediate and direct as to subtract from the owner's full enjoyment of the property and to limit his exploitation of it." Id., at 264-265. The Court concluded that the damages to the respondents "were not merely consequential. They were the product of a direct invasion of respondents' domain." Id., at 265-266. See also Griggs v. Allegheny County, 369 U. S. 84 (1962). Two wartime takings cases are also instructive. In United States v. Pewee Coal Co., 341 U. S. 114 (1951), the Court unanimously held that the Government's seizure and direction of operation of a coal mine to prevent a national strike of coal miners constituted a taking, though members of the Court differed over which losses suffered during the period of Government control were compensable. The plurality had little difficulty concluding that because there had been an "actual taking of possession and control," the taking was as clear as if the Government held full title and ownership. Id., at 116 (plurality opinion of Black, J., with whom Frankfurter, Douglas, and Jackson, JJ., joined; no other Justice challenged this portion of the opinion). In United States v. Central Eureka Mining Co., 357 U. S. 155 (1958), by contrast, the Court found no taking where the Government had issued a wartime order requiring nonessential gold mines to cease operations for the purpose of conserving equipment and manpower for use in mines more essential to the war effort. Over dissenting Justice Harlan's complaint that "as a practical matter the Order led to consequences no different from those that would have followed the temporary acquisition of physical possession of these mines by the United States," id., at 181, the Court reasoned that "the Government did not occupy, 432\*432 use, or in any manner take physical possession of the gold mines or of the equipment connected with them." Id., at 165-166. The Court concluded that the temporary though severe restriction on use of the mines was justified by the exigency of war.[8] Cf. YMCA v. United States, 395 U. S. 85, 92 (1969) ("Ordinarily, of course, government occupation of private property deprives the private owner of his use of the property, and it is this deprivation for which the Constitution requires compensation").

#### Private appropriation of extracted space resources is distinct from appropriation “of” outer space. Despite longstanding permission of appropriation of extracted resources, sovereign claims are still universally prohibited.

Abigail D. Pershing, J.D. Candidate @ Yale, B.A. UChicago,’19, "Interpreting the Outer Space Treaty's Non-Appropriation Principle: Customary International Law from 1967 to Today," Yale Journal of International Law 44, no. 1

II. THE FIRST SHIFT IN CUSTOMARY INTERNATIONAL LAW’S INTERPRETATION OF THE NON-APPROPRIATION PRINCIPLE

Since the drafting of the Outer Space Treaty, several States have chosen to reinterpret the non-appropriation principle as narrower in scope than its drafters originally intended. This reinterpretation has gone largely unchallenged and has in fact been widely adopted by space-faring nations. In turn, this has had the effect of changing customary international law relating to the non-appropriation principle. Shifting away from its original blanket application in 1967, States have carved out an exception to the non-appropriation principle, allowing appropriation of extracted space resources.53 This Part examines this shift in the context of the two branches of the United Nation’s customary international law standard: State practice and opinio juris.

A. State Practice

The earliest hint of a change in customary international law relating to the interpretation of the non-appropriation clause came in 1969, when the United States first sent astronauts to the moon. As part of his historic journey, astronaut Neil Armstrong collected moonrocks that he brought back with him to Earth and promptly handed off to the National Aeronautics and Space Administration (NASA) as U.S. property.54 Later, the USSR similarly claimed lunar material as government property, some of which was eventually sold to private citizens. 55 These first instances of space resource appropriation did not draw much attention, but they presented a distinct shift marking the beginning of a new period in State practice. Having previously been limited by their technological capabilities, States could now establish new practices with respect to celestial bodies. This was the beginning of a pattern of appropriation that slowly unfolded over the next few decades and has since solidified into the general and consistent State practice necessary to establish the existence of customary international law. Currently, the U.S. government owns 842 pounds of lunar material.56 There is little question that NASA and the U.S. government consider this material, as well as other space materials collected by American astronauts, to be government property.57 In fact, NASA explicitly endorses U.S. property rights over these moon rocks, stating that “[l]unar material retrieved from the Moon during the Apollo Program is U.S. government property.”5

The U.S. delegation’s reaction to the language of the 1979 Moon Agreement further cemented this interpretation that appropriation of extracted resources is a permissible exception to the non-appropriation clause of Article II. Although the United States is not a party to the Moon Agreement, it did participate in the negotiations.59 The Moon Agreement states in relevant part: Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or nongovernmental organization, national organization or nongovernmental entity or of any natural person.60

In response to this language, the U.S. delegation made a statement laying out the American view that the words “in place” imply that private property rights apply to extracted resources61—a comment that went completely unchallenged. That all States seemed to accept this point, even those bound by the Moon Agreement, is further evidence of a shift in customary international law.62

B. Opinio Juris: Domestic Legislation

Domestic law, both in the United States and abroad, provides further evidence of the shift in customary international law surrounding the issue of nonappropriation as it relates to extracted space resources.

Domestic U.S. space law is codified at Section 51 of the U.S. Code and has been regularly modified to expand private actors’ rights in space.63 Beginning in 1984, the Commercial Space Launch Act provided that “the United States should encourage private sector launches and associated services.”64 The goal of the 1984 Act was to support commercial space launches by private companies and individuals.65 It did not, however, specifically discuss commercial exploitation of space. The first such mention of commercial use of space appeared in 2004, with the Commercial Space Launch Amendments Act.66 This Act specifically aimed at regulating space tourism but did not explicitly guarantee any private rights in space.67

The most significant change in U.S. space law came with the passage of the Spurring Private Aerospace Competitiveness and Entrepreneurship (SPACE) Act in 2015. As incorporated into Section 51 of the Code, this Act provides: A United States citizen engaged in commercial recovery of an asteroid resource or a space resource under this chapter shall be entitled to any asteroid resource or space resource obtained, including to possess, own, transport, use, and sell the asteroid resource or space resource obtained in accordance with applicable law, including the international obligations of the United States.68

Whereas the idea that private corporations might go into space may have seemed far-fetched to the drafters of the Outer Space Treaty, the SPACE Act of 2015 was the first instance of a government recognizing such a trend and officially supporting private companies’ commercial rights to space resources under law. With the new 2015 amendment to Section 51 in place, U.S. companies can now rest assured that any profits they reap from space mining are firmly legal—at least within U.S. jurisdictions.

Although the United States was the first country to officially reinterpret the non-appropriation principle, other countries are following suit. On July 20, 2017, Luxembourg passed a law entitled On the Exploration and Utilization of Space Resources with a vote of fifty-five to two.69 The law took effect on August 1, 2017.70 Article 1 of the new law states simply that “[s]pace resources can be appropriated,” and Article 3 expressly grants private companies permission to explore and use space resources for commercial purposes.71 Official commentary on the law establishes that its goal is to provide companies with legal certainty regarding ownership over space materials—a goal that the commentators regard as legal under the Outer Space Treaty despite the non-appropriation principle.72 The next country to enact similar legislation may be the United Arab Emirates (UAE). According to the UAE Space Agency director general, Mohammed Al Ahbabi, the UAE is currently in the process of drafting a space law covering both human space exploration and commercial activities such as mining.73 To further this goal, in 2017 the UAE set up the Space Agency Working Group on Space Policy and Law to specify the procedures, mechanisms, and other standards of the space sector, including an appropriate legal framework.74

C. Opinio Juris: Legal Scholarship

Other major space powers are also considering similar laws in the future, including Japan, China, and Australia. 75 Senior officials within China’s space program have explicitly stated that the country’s goal is to explore outer space and to take advantage of outer space resources.76 The general international trend clearly points in this direction in anticipation of a potential “space gold rush.” 7

Mirroring the shift in State practice and domestic laws, the legal community has also changed its approach to the interpretation of the nonappropriation principle. Whereas at the time of the ratification of the Outer Space Treaty the majority of legal scholars tended to apply the non-appropriation principle broadly, most legal scholars now view appropriation of extracted materials as permissible.78 Brandon Gruner underscores that this new view is historically distinct from prior legal interpretation, noting that modern interpretations of the Outer Space Treaty’s non-appropriation principle differ from those of the Treaty’s authors.79

In contrast to earlier legal theory that denied the possibility of appropriation of any space resources, scholars now widely accept that extracting space resources from celestial bodies is a “use” permitted by the Outer Space Treaty and that extracted materials become the property of the entity that performed the extraction.80 Stressing the fact that the Treaty does not explicitly prohibit appropriating resources from outer space, other authors conclude that the use of extracted space resources is permitted, meaning that the new SPACE Act is a plausible interpretation of the Outer Space Treaty.81

However, scholars have been careful to cabin the extent to which they accept the legality of appropriation. For instance, although Thomas Gangale and Marilyn Dudley-Rowley acknowledge the legality of private appropriation of extracted space resources, they nonetheless emphasize that “[o]wnership of and the right to use extraterrestrial resources is distinct from ownership of real property” and that any such claim to real property is illegal.82 Lawrence Cooper is also careful to point out this distinction: “[t]he [Outer Space] Treaties recognize sovereignty over property placed into space, property produced in space, and resources removed from their place in space, but ban sovereignty claims by states; international law extends this ban to individuals.”83 Although there remain some scholars who still insist on the illegality of the 2015 U.S. law and State appropriation of space resources generally,84 their dominance has waned since the 1960s. These scholars are now a minority in the face of general acceptance among the legal community that minerals and other space resources, once extracted, may be legally claimed as property. 85

Taken together, the elements described above—statements made in the international arena, de facto appropriation of space resources in the form of moon rocks, the adoption of new national policies permitting appropriation of extracted space resources, and the weight of the international legal community’s opinion— indicate a fundamental shift in customary international law. The Outer Space Treaty’s non-appropriation clause has been redefined via customary international law norms from its broad application to now include a carve-out allowing appropriation of space resources once such resources have been extracted.

#### Violation ­– the aff bans private resource extraction through asteroid mining, which is limited in scope – that’s distinct from full sovereignty over space—no plan text in a vacuum—the words are given meaning by the advantage and CX proves they claim to solve.

#### Vote neg:

#### Limits – their interp explodes the topic to include affs about using space for any single purpose, like space-based solar power, helium and REMs on the Moon, space tourism, and climate adaptation satellites – this is unpredictable because topic lit is concerned with sovereignty over space and space colonization broadly, privileges the aff by stretching pre-tournament neg prep too thin and precludes nuanced case negs that rigorously test the aff

#### Precision – Justifies the aff arbitrarily doing away with words in the resolution which gives way to affs about anything from public appropriation affs to air space affs and many more which obliterates negative prep.

#### Ground – allowing debates about extracting any space resource denies the neg links to core generics like space col good, which only answers affs that broadly prohibit states from using space – this kills testing and forces negatives to the fringes of argumentation like generic Ks that are stale and vulnerable to aff prep-outs

#### evaluated through competing interpretations—it tells the negative what they do and do not have to prepare for. Reasonability is arbitrary and unpredictable, inviting a race to the bottom and we’ll win it links to our offense.

#### Precision o/w – anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### Drop the debater to deter future abuse and because the 2N doesn’t get new disads so it’s permanently skewed.

#### No RVIs—it’s your burden to be fair and T—same reason you don’t win for answering inherency or putting defense on a disad.

### 1NC—2

#### The aff reifies dualistic thinking. Appeals to space as being the dominion of humankind, free to explore for the benefit of our common heritage, promote an image of humanity unburdened by its material environment.

Ferrando 16 [(Francesca, Ph.D. in philosophy, M.A. in Gender Studies, Professor.@ NYU) “Why Space Migration Must Be Posthuman”, 2016, http://ndl.ethernet.edu.et/bitstream/123456789/76546/1/147.pdf.pdf#page=136yperlink] TDI

In 2008, NASA released an official Statement on the Environmental Impact (PEIS), which takes into consideration the environmental impact of space tech- nology on Earth, but it does not acknowledge its impact on other celestial bodies, such as the Moon or other planets of the Solar System. Critical to this type of anthropocentric and Earth-centric approach, William Kramer underlines: “there is no comprehensive process required...for assessing human impacts on those extraterrestrial environments” (2014, 216). Space technology and space-based human activity shall be analyzed from a view which takes into account their effects not only on humans and on Earth, but on outer space as well. In order to address this issue, we first need to engage with the question asked by Reinman (2009): is (outer) space an environment? If so, it shall be regulated under specific environ- mental conditions. In Reinman’s opinion, “space at large should not enjoy a moral status equal to Earth” (ibid., 86), as she grants a primacy to Earth based on bio-centric values: “In many ways Earth, with its unique, abundant life, is special. There is nothing quite like it in the Solar System” (ibid.). Although the point raised by Reinman is of key importance to our discussion, from a posthuman perspective, regarding the Earth as “special” because of its life abundance is problematic, being supported by an Earth-centric, bio-centric and quantitative principle which supremacy is not inherently justified; life itself, in fact, is a slippery concept. The current understanding of life is merely descriptive, not definitive: the border between animate/inanimate is difficult to mark and is often transgressed.24 Viruses, for instance, exhibit some of the characteristics which are common to organic life, while they are missing others, challenging the biological concept of life itself.25 More in general, it can be stated that life is not a clearly defined notion; instead, as Michel Foucault noted: “Life...is a category of classification, relative, like all the other categories, to the criteria one adopts” (1966; Engl. Transl. 1970, 161). Going back to Reinman’s conclusions, she underlines an aspect of strategic relevance for a posthumanist sensitivity: “humans’ actions towards their surroundings will continue to affect people whether we live on Earth or in space” (2009, 86). Let’s reflect further upon this point. The non-human agency of matter (Barad 2007), as high- lighted within the frame of New Materialism, plays a key role in allowing us to recognize agency to planets, stars and asteroids. The relational onto-epistemological approach of New Materialism makes us think on the possible astro-ecological impacts of Moon mining, or of terraforming in Mars,26 on the balance of the solar system and, eventually, on their orbits. Even the environmentally-sound concept of space-based solar power (cf. Ernst 2013) should be considered from perspectives others than Earth. Object-Oriented Ontology, and in particular the notion of “Hyperobjects” (Morton 2013), highlights the material viscosity of objects whose performance exceeds both a particular space and a particular time: reading the current opening of the space market from this perspective will unmask the long-term irreversible consequences of our present actions. Space is the next frontier, where new resources, habitats and life forms are currently being sought: in November 2015, the United States Government passed the “Commercial Space Launch Competitiveness Act “[t]o facilitate a pro-growth environment for the developing commercial space industry by encouraging private sector investment” (U.S. Commercial Space Launch Competitiveness Act 2015). Although approaching outer space as a resource may spark interest and funding, from an heideggerian perspective, it is ontologically limiting and epistemologically partial, based on an Earth-centered policy sustained by an anthropocentric Weltanschauung. Furthermore, the “Space Act” may contravene the international regulations laid down by the “Outer Space Treaty” (1967), a key document ratified by 104 countries, including the US, which still represents the legal framework for space activity. The Office for Outer Space Affairs of the United Nations summarizes the following principles as the main ones sustaining the Treaty: 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; outer space shall be free for exploration and use by all States; outer space is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means; States shall not place nuclear weapons or other weapons of mass destruction in orbit or on celestial bodies or station them in outer space in any other manner; the Moon and other celestial bodies shall be used exclusively for peaceful purposes; astronauts shall be regarded as the envoys of mankind; States shall be responsible for national space activities whether carried out by gov- ernmental or non-governmental entities; States shall be liable for damage caused by their space objects; and States shall avoid harmful contamination of space and celestial bodies. (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space 1967) As we can see, this document is based on the principle of the common heritage of humankind, according to which “outer space is not subject to national appropriation by claim of sovereignty”. Conceived during the Cold War, the Treaty inaugurates a post-nationalistic post-bellic approach to space, setting a new paradigm which has departed from the dualistic imprinting of “us” against “them”. Although still within an anthropocentric schemata focussed on the interests of “mankind”, the step is huge. For instance, celestial bodies shall be used “for peaceful purposes” and shall not be contaminated; astronauts are considered the “envoys” of humankind.27 The human frame has been opened and expanded: posthumanism has entered the gates to the heavens. It is now time to consider the impact of space encountering on human identity and existential insights, by delving into the specific change of perspective brought along by space traveling. This radical shift, known as the overview effect, consists of a series of epiphanies experienced by astronauts looking at the Earth from outer space. In his book The Overview Effect: Space exploration and human evolution (1998), Frank White relates such a shift in consciousness to that specific geographical perspective, stating: “Mental processes and views of life cannot be separated from physical location” (3). Humans are embodied beings; their materiality is a process supported and deeply affected by their surroundings. White further asserts this point by emphasizing the fact that the astronauts in Earth orbits and the lunar astronauts have different types of epiphanies: “The orbital astronaut sees the Earth as huge and himself or herself as less significant. The lunar astronaut sees the Earth as small and feels the awesome grandeur of the entire universe...Both pro- grams change the astronaut’s perception of the Earth and of his or her own identity, but in quite different ways” (ibid., 36). To White, the overview effect is so significant, that he affirms: “It is possible to grasp the true implications of this evolutionary process only by seeing it from the viewpoint of the universe as a whole, and from that perspective, the Overview Effect may point to humankind’s purpose as a species” (ibid., 5). The overview effect is of key importance to space ethics, allowing us to approach the topic of space migration not only from the usual utilitarian perspective, but also from an onto-epistemological standpoint: resonating with Heidegger, space physically becomes “a way of revealing”.

#### **The anthropocentricism of Western ethics is rooted in Kantian dualism.**

Wu 14 [(Wu, Su-chen, Assistant Professor, Foreign Languages and Cultures Department, Fo Guang University) "Anthropocentric Obsession: The Perfuming Effects of vāsanā (Habit-energy) in ālayavijñāna in the Lan˙ kāvatāra Sūtra." Contemporary Buddhism 15.2 (2014): 416-431.] TDI

Anthropocentrism is present in the epistemology, ethics, and metaphysics of Western society. It describes the tendency for human beings to regard themselves as the central and most significant entities in the universe. Thus, human beings interpret anthropocentrism as the assessment of reality through an exclusively human perspective. The worldview of Western anthropocentrism features dualism. A dualistic worldview is a perspective that looks at spirit and material, mind and body, human and nature as two separate entities. A dualistic worldview also leads to the emergence of discrimination. The reason lies in its predisposing the very way human beings think about themselves and the nonhuman world toward hierarchy and domination. In this sense, the issue of anthropocentrism may be more about ethics than epistemology, since dualism would get involved with the category of value. In the literature of environmental ethics, the distinction between instrumental value and intrinsic value has been of considerable importance. The instrumental value is the value of a thing as a means to further some other end, whereas intrinsic value, is an end in itself regardless of whether it is also useful as means to other ends. Many traditional Western ethical perspectives are anthropocentric or human-centred in that they assign intrinsic value to human beings alone. Implicit in the notion of instrumental value is the inherent tendency toward the domination of nature (Leiss 1994, 58 –59). Some Western philosophical thinkers, such as Immanuel Kant and Bertrand Russell, illustrate how human beings with anthropocentric viewpoints hold that human needs and interests are of the highest value and importance. Immanuel Kant, in his essay ‘Rational Beings Alone Have Moral Worth’, argued that ‘our duties towards animals are merely indirect duties towards humanity’ (Kant 2012, 61). From Kant’s perspective, we have no duties to nonhumans, only duties to other humans. In Kant’s views, nonhumans are only valuable because they could be used to achieve goals set by the values. They are means to an end but not an end in themselves. Bertrand Russell also wrote: ‘I am unable to believe that, in the world as known, there is anything that I can value outside human beings, and, to a much lesser extent, animals’ (qtd. in Paul Arthur Schilpp 1989, 19 –20). In this sense, nonhumans are regarded as instruments to human interests and values.

#### The impact is permanent war—their political discourses surrounding space make militarization inevitable and turns the case.

Dickens and Ormrod 16 [(Peter Dickens, Senior Research Associate in the Department of Sociology at the University of Cambridge, member of the Red-Green Study Group in London, James S Ormrod, Principal Lecturer in Sociology at the University of Brighton), “The Future of Outer Space”, *The Palgrave Handbook of Society, Culture and Outer Space*] TDI

An argument can be made that the conquest of outer space has represented the ultimate victory of abstract space (see also Shaw, 2008, p. 115). Any meaningful distinction between terrestrial space and the rest of the cosmos has been eroded. This is not to say that the whole of outer space has been humanized, which of course it has not, but that space has come to be reconceptualized and re-experienced as a space for accumulation like any other. It is a space thoroughly colonized by terrestrial knowledge and practice (whether considered primarily capitalist, male, white or anything else). For Benjamin and a host of others (from Klerkx, 2005, to Parker, 2009), the disinvestment in outer space exploration and development came as a result of the bureaucratization of NASA, and its engulfment within the military-industrial complex. With the development of the International Space Station (ISS) and the Space Shuttle (which according to some accounts were each the rationale for the development of the other), space exploration became routine and unexciting. Nothing fundamentally new appeared to be happening in space. Whether or not this is seen as true depends a great deal on perspective. Even if NASA budgets were being cut, this volume has hopefully made clear that a great deal was still happening in space. New space technologies continued to be developed, and these technologies were being integrated into terrestrial life in innumerable ways. But we believe it is also true (and this has been the emphasis of our work elsewhere, see Dickens and Ormrod, 2007) that these developments represent the continuation of terrestrial power relations and social dynamics. Space development is, to put it one way, business as usual. And crucially, any novelty to these developments was undermined by the representation of outer space in similar terms to the representation of terrestrial space. As evidenced in this book, political scientists, geographers and legal scholars had begun to talk about outer space as a knowable, if not actually known, space. The origins of this representation of space can be traced to Copernicus (MacDonald, 2009) and/or Kepler (Zubrin, 1996). But with the routinization of outer spatial practices (from increasing launch rates to the proliferation of satellite-receiving terminals, to the everyday use of satellite services to underpin military operations, communications, entertainment, navigation and so on), these representations were made manifest in the creation of a new social space. The central problem with the final victory of abstract space was that it obliterated the very ‘absolute spaces’ on which it was founded, and from which it derived its emotional appeal. It is in a way surprising that the development of modern spaceflight was from its inception anchored in a religious or spiritual cosmology. This was true of both Russian and American contexts (see also Geppert, 2007, p. 599). The Russian programme has long roots in the tradition of Russian cosmism (Kohonen, 2009; Siddiqi, 2010). And, as Pop notes, Richard Nixon said to the Apollo 11 astronauts; ‘Because of what you have done, the heavens have become a part of man’s world.’ Pop goes on: ‘Are we today turning mythology into fact?’ – asked Joseph Campbell on the occasion of the Apollo programme. The astronauts walked on the real astronomical moon, as it was; but they walked on the mythical moon of each culture, as thought to be, as imagined. Their trip was physical and metaphysical. They walked through different cosmogonies; through different models of the universe. (Pop, 2012, personal communication, see also ‘High Flight: A Spiritual History of the Space Age’, in preparation) This continued relationship was not coincidental. As a number of contributions here show, the appeal of outer space lay in the promise of conquering the wondrous or Godly and hence the elevation of the status of humanity (or, rather more specifically, white men). This is not necessarily that dissimilar to the process Sims describes in his chapter, whereby myths ‘record time’. Ormrod illustrates this in his chapter through analysis of Tsiolkovsky’s science fiction in which the best human beings are able to fly like angels in space. As Kilgore notes in his chapter, Carl Sagan owed his continued appeal to his simultaneous reproduction of wonder as well as knowledge. The British celebrity cosmologist Brian Cox (see Mellor, this volume, for more on him) has arguably taken this even further, such that his popular shows and writing dedicate more time to what is unknown than to knowledge itself. These lacunae became spaces for wild imaginative projects – projects more captivating than any empirical knowledge. It is no wonder that the continued disenchantment and re-enchantment of the universe have become a major theme in recent work. Based largely on studies of astronauts’ experiences, Kilbryde (2015) argues that space exploration can potentially be a means of overcoming the dualism through which outer space is constructed as an object, and thus of experiencing unity. This is provided that the sense of awe and wonder it engenders is not sought as a ‘possession’ of the individual or as something to be subsequently rationalized. It is the invocation of obstacles that produces space as something potentially unconquerable, and hence worth conquering. And yet the obliteration of the irrational or wondrous sweeps the ground from underneath such a project. To the extent that outer space has become an abstract space, it has been foreclosed as a frontier. It is a frontier, but a frontier without a future. In removing the possibility of an elsewhere, it serves only to secure terrestrial hegemony. In their own ways, both Baudrillard and Virilio present such a view of outer space. For Baudrillard, it was in any case a frontier that served as a model for terrestrial life, which set the permissible limits for struggle and confrontation within it. He concludes, Through the orbital inscription of a spatial object, it is the planet earth that becomes a satellite, it is the terrestrial principle of reality that becomes eccentric, hyperreal, and insignificant. Through the orbital installation of a system of control like peaceful coexistence, all the terrestrial microsystems are satellized and lose their autonomy. (p. 35) Everyone on Earth is neutralized and homogenized. The proliferation of space technology since he was writing, and the blurring of civilian and military technologies, has only broadened the potential of such an understanding. Parks and Schwoch (2012, p. 4), in the context of the ‘satellization’ of global security, refer to the satellites as ‘the ultimate rationalization and instrumentalization of the quest for global security and domination’. For Virilio, there was such a homology between the technologies of war, the image of space as a battlefield and the political discourses about space that the future seemed equally foreclosed. He makes the claim that any space is constituted ‘from the outside’ (cited in Bormann, 2009, p. 80). That is to say, it is perceived on the basis of that which precedes it. Bormann is therefore able to argue that ‘nothing about outer space is “out there”, what we get to know about outer space is always socially, spatially and locally embedded’ (p. 80). Bormann, following Virilio, seems to believe that this is especially true of the vacuum of outer space: [O]ther than the view there is no physical or physiological contact. No hearing, no feeling in the sense of touching materials, with the exception of an actual Moon landing. Thus the conquest of space, of outer space – isn’t it more the conquest of the image of space? (Virilio & Ujica, 2003, cited in Bormann, 2009, p. 84) Bormann reaches the pessimistic conclusion that ‘the perpetuation of outer space as a sphere of permanent war and its claims to weaponization will soon make no alternative possible’ (p. 84). This is the product, in the large part, of her assumption that ‘[w]hat we get to know about the space of outer space is dominated by information provided through the possibilities (and limits) of military technology’ (p. 81).

#### The alternative is to see that nature is us—recognizing the logic of the 1AC as the primary barrier to overcoming challenges to our environment and beyond.

Baskin 15 [(Jeremy, Senior Fellow at the Melbourne School of Government where he focuses on the legitimacy and accountability of knowledge) Paradigm Dressed as Epoch: The Ideology of the Anthropocene, 2015, Environmental Values] TDI

Even the limited examples from the literature already cited suggest that the assumptions of proponents of the Anthropocene about managerialism, technology and expertise are transparent and explicit. In almost all major accounts of the concept it is assumed that responding to the end of nature, and the challenges of the Anthropocene, requires a trinity of techniques: clear management of the Earth and Earth-systems, guided by experts (and scientists/engineers in particular), using the most advanced technology possible (including large- scale technology). The challenges themselves are typically framed by a sense of emergency. The great weight of accumulating scientific data is recruited, to show how the human species and its planet are at risk. Landscapes and seascapes are being transformed, boundaries are being breached, non-linear processes have been unleashed, system pressures are rising and tipping points are either happening or looming; and all of this is both unprecedented in human history and fundamentally anthropogenic in cause. Certainly recognition of the made-ness of the natural world means acknowledging that this carries responsibilities for the relevant human socie- ties, even a degree of conscious management. For leading proponents of the Anthropocene, the scale of management required is commonly seen, implicitly or explicitly, as global: since we face global problems, global management is needed to run the Earth in the Anthropocene. But what does it mean to frame policies within a global, universalist goal of ‘running the Earth’, and what condition are we trying to manage it towards? Those of a more Aidosean inclination have spoken of the need to manage a return to the Holocene, or Holocene-like conditions, since this is ‘the only global environment that we are sure is “safe operating space” for the complex, extensive civilization that Homo sapiens has constructed’ (Steffen et al., 2011b: 747). This is the best way to manage the risks we face as we increasingly cross the planetary boundaries. The Prometheans, by contrast, argue that we should manage our way towards ‘a better Anthropocene’ (Ellis, 2011). The internal logic of the argument surely lies with the Prometheans. If humanity acknowledges and embraces its role as Earth-manager, and if we are indeed ‘post-nature’ and ‘nature is us’, then it is clearly impossible to return the Earth to the Holocene (or at least it would take millennia to do so). Why not aim for a ‘better’ Earth, or a more benign climate in which Norwegians are less cold, and Saudi Arabians less hot? For our purposes, however, the point is that the Aidosean and Promethean versions differ over the direction and goals of plan- etary management, rather than the need for it. Managing the Anthropocene is also understood to come with special responsibilities for the scientific and engineering community (Crutzen, 2002). Only they are likely to have the knowledge, data and skills required in this new Age of Humans. At one level, one should not read too much into this, since the key proponents of the concept happen to be scientists and, not surprisingly, are more alert to the extent of their own knowledge and insights. Certainly sci- entists in the Anthropocene would have a key role as diagnosticians and, with engineers, as generators of specific technologies. But there is something troubling in the idea of scientists as both informants and saviours. Whilst policy needs to be informed by science, experience teaches that we should remain wary of the idea that policy can or should be guided by the science (Jasanoff, 1990; Pielke, 2007). As we know from the ‘climate wars’, the barriers to bringing down carbon-dioxide concentrations are almost entirely related to global and local politics, vested interests, deep-rooted values, economic structures and so on. For well over a decade they have been almost entirely unrelated to there being a lack of scientific data or new technologies (see Pielke, 2007: 71–2). Proponents of the Anthropocene almost always draw a link between the concept and the need for (or, at least, the need to research and consider) large-scale technological interventions, and, in particular, geo-engineering. Geo-engineering, or climate engineering, involves the large-scale, intentional manipulation of the climate system, to regulate the Earth’s chemistry and the global temperature. The most commonly cited scheme involves solar radia- tion management by stratospheric aerosol injection: in practice, shrouding the upper atmosphere of the planet in a fine layer of sulphuric particles, on an ongoing basis, with the aim of cooling the earth to offset the warming effects of rising greenhouse-gases. Most key articles from the scientific community which advocate the Anthropocene concept either endorse geo-engineering, call for the capability to be developed, or simply make it imaginable (for example: Crutzen, 2002, 2006; Ellis and Haff, 2009). A minority clearly find the idea uncomfortable and incompatible with planetary stewardship, even whilst re- taining it as an option (for example: Steffen et al., 2011a). A LEGITIMATING IDEOLOGY? We now see the emerging shape of the mainstream Anthropocene paradigm, and its narrative. The idea (and the evidence) that humanity is now the dominant earth-shaping force combines with the data showing that the condition of the patient is serious, possibly terminal. Humanity and its planet are now in a critical and exceptional state. This both generates and draws upon an attrac- tion to global-scale technological ‘solutions’ and earth management, under the guidance of the scientists/engineers best placed to understand, interpret and help shape the necessary interventions. These are responses aimed either at bringing us back from the brink, or at taking us to a new and better-managed future Earth. In both versions, the Anthropocene is both diagnosis and cure, both description and prescription. It is important to note the deeply authoritarian and de-politicising tendencies of Anthropocene discourse. Proponents regularly talk of a ‘global sustainability crisis’ (Steffen et al., 2011b: 740) and a ‘climate emergency’, and suggest that humanity and its planet are now in ‘operating in a no-analogue state’ (Crutzen and Steffen, 2003: 253). This is not uncommon in much envi- ronmental discourse. But its effect, in the context of the Anthropocene, is that framing through exceptionality can legitimate the need for exceptional rule and authoritarian responses. This is enhanced by the promise of technology (machines, techniques, human-centred risk management) as the basis of action and ‘salvation’. The emphasis on ‘the rule of experts’, and the associated endorsement of a technocratic consciousness, depoliticises society and tends to reduce the political to the technical, justifying decisions on technical grounds. It also helps explain a related interest by many Anthropocene proponents in notions of Earth governance, which is not explored here. This Promethean version is the one likely to be most attractive to the powerful and the privileged in the event that nature starts tipping, and as ‘the period of consequences’, to use Churchill’s memorable phrase, becomes in- creasingly apparent. It can also be thought of as ‘full-belly Anthropocene’, or the ‘Anthropocene of the rich’, to adapt Guha and Martinez-Alier’s resonant phrase (1997).7 Discourses of the Anthropocene certainly may have some ability to chal- lenge the notion of human ‘progress’ and ‘the belief systems and assumptions that underpin neo-classical economic thinking, which in turn has been a major driver of the Great Acceleration’ (Steffen et al., 2011a: 861–2). But, as a con- cept, it appears overall to legitimate the dominant order, even if unintentionally. In my argument, it does this in three major ways: by universalising/normalisng the affluent contemporary consumer as the human of the Anthropocene (thereby obscuring the social reality of unequal responsibility for impacts, and the pathological pursuit of endless and unequal growth); by its elevation and sacralisation of this particular humanity (reinserting it into nature only to reelevate it within and above it as a force of nature); and by its ability to legitimise a range of major and potentially highly dangerous interventions into the workings of the earth, and some deeply authoritarian state practices, none of which are likely to be exercised in the interests of most of the world’s people.

#### Interpretation – Evaluate the aff as an object of research – they need to weigh their assumptions and epistemology as well

#### [1] Debate is a site of scholarship production. Even if ballots do not change our subjectivities, investments in research models influence our political orientations. My critique can act as a starting point for a new mode of politics in which we view humans and nature as one.

#### [2] George Bush DA – justifications and representations influence our political advocacy. Even though George Bush and Marxists both hate Donald Trump, the reasons why matter as much. Which means justifications are important to weigh even if conclusions are similar.

### 1NC—3

#### Interp – the aff must specify the actor or actors enforcing the plan in the 1AC plan text.

#### Violation: they didn’t

#### Vote neg:

#### 1] Ground—neg circumvention args, agent-based disads like infrastructure, and process counterplans are all key on a large topic. Exploring the intricacies of interbranch disputes and complex legal doctrines between states is critical to a balanced vision of the topic. Their interp promotes stale debates with no aff-specific evidence which prevents testing the aff. Text is key since shifting advocacies between speeches means I’m shooting at a moving target.

#### 2] CX doesn’t solve – it moots pre round prep and not knowing what the aff does till CX doesn’t give me enough to formulate a coherent strategy. It’s functionally equivalent to having multiple affs disclosed on the wiki and not saying which one you’ll read before the round, which skews neg strategy. At worst, it means presume no solvency.

## 1NC – Offense

#### 1] The conclusion of their standard is libertarianism.

Otteson 09 [(James R., professor of philosophy and economics at Yeshiva University) “Kantian Individualism and Political Libertarianism,” The Independent Review, v. 13, n. 3, Winter, [2009](https://link.springer.com/article/10.1007/s10790-015-9506-9)] TDI

It is difficult to imagine a stronger defense of the “sacred” dignity of individual agency. Kantian individuality is premised on its rational nature and its entailed inherent dignity, and the rest of his moral philosophy arguably is built on this vision.1 Kant relies on a similarly robust conception of individuality in work other than his explicitly moral philosophy. The 1784 essay “An Answer to the Question: ‘What Is Enlightenment?’” (Kant 1991), for example, emphasizes in strong terms the threat that paternalism poses to one’s will. Kant argues that “enlightenment” (Aufklärung) involves a transition from moral and intellectual immaturity, wherein one depends on others to make one’s moral and intellectual decisions, to maturity, wherein one makes such decisions for oneself. One cannot effect this transition if one remains under another’s tutelage, and, as a corollary, one compromises another’s enlightenment if one undertakes to make such decisions for the other person—which, as Kant argues, is the case under a paternalistic government. Kant also writes in his 1786 essay “What Is Orientation in Thinking?” that “To think for oneself means to look within oneself (i.e. in one’s own reason) for the supreme touchstone of truth; and the maxim of thinking for oneself at all times is enlightenment” (1991, 249, italics and bold in the original). These passages are consistent with the position he takes in Grounding that a person who depends on others is acting heteronomously, not autonomously, and is to that extent not exercising a free moral will. These passages also help to clarify Kant’s notion of personhood and rational agency by indicating some of their practical implications. For example, on the basis of his argument, one would expect him to argue for setting severe limits on the authority that any group of people, including the state, may exercise over others: because individual freedom is necessary both to achieve enlightenment and to exercise one’s moral agency, Kant should argue that no group may impinge on that freedom without thereby acting immorally. Kant expressly draws this conclusion in his 1793 essay “On the Common Saying: ‘This May Be True in Theory, but It Does Not Apply in Practice’”: Right is the restriction of each individual’s freedom so that it harmonises with the freedom of everyone else (in so far as this is possible within the terms of a general law). And public right is the distinctive quality of the external laws which make this constant harmony possible. Since every restriction of freedom through the arbitrary will of another party is termed coercion, it follows that a civil constitution is a relationship among free men who are subject to coercive laws, while they retain their freedom within the general union with their fellows. (1991, 73, emphasis in original) Kant insists on the protection of a sphere of liberty for each individual to self-legislate under universalizable laws of rationality, consistent with the formulation of the categorical imperative requiring the treatment of others “always at the same time as an end and never simply as a means” (1981, 36). This formulation of the categorical imperative might even logically entail the position Kant articulates about “right,” “public right,” and “freedom.” Persons do not lose their personhood when they join a civil community, so they cannot rationally endorse a state that will be destructive of that personhood; on the contrary, according to Kant, a person enters civil society rationally willing that the society will protect both his own agency and that of others. Robert B. Pippen rightly says that for Kant “political duties are a subset of moral duties” (1985, 107–42), but the argument here puts it slightly differently: political rights, or “dignities,” derive from moral rights, which for Kant are determined by one’s moral agency. Thus, the only “coercive laws” to which individuals may rationally allow themselves to be subject in civil society are those that require respect for each others’ moral agency (and provide for the punishment of infractions thereof) (see Pippen 1985, 121). When Kant comes to state his own moral justification for the state in the 1797 Metaphysics of Morals, this claim is exactly the one he makes: the state is necessary for securing the conditions of “Right”—in other words, the conditions under which persons can exercise their autonomous agency (see 1991, 132–35). Consistent with this interpretation, Kant elsewhere endorses free trade and open markets on grounds that make his concern for “harmony” in the preceding passage reminiscent of Adam Smithian invisible-hand arguments. In his 1784 essay “Idea for a Universal History with a Cosmopolitan Purpose,” Kant writes: “Individual men and even entire nations little imagine that, while they are pursuing their own ends, each in his own way and often in opposition to others, they are unwittingly guided in their advance along a course intended by nature. They are unconsciously promoting an end which, even if they knew what it was, would scarcely arouse their interest” (1991, 41). This statement is similar to Smith’s statement of the invisible-hand argument.2 Kant proceeds to endorse some of the same laissez-faire economic policies that Smith advocated—for example, in his discussion in his 1786 work “Conjectures on the Beginning of Human History” of the benefits of “mutual exchange” and in his claim that “there can be no wealth-producing activity without freedom” (1991, 230–31, emphasis in original), as well as in his claim in the 1795 Perpetual Peace that “the spirit of commerce” is motivated by people’s “mutual self-interest” and thus “cannot exist side by side with war” (1991, 114, emphasis in original).3 Finally, although Kant argues that we cannot know exactly what direction human progress will take, he believes we can nevertheless be confident that mankind is progressing.4 Thus, in “Universal History” he writes: The highest purpose of nature—i.e. the development of all natural capacities—can be fulfilled for mankind only in society, and nature intends that man should accomplish this, and indeed all his appointed ends, by his own efforts. This purpose can be fulfilled only in a society which has not only the greatest freedom, and therefore a continual antagonism among its members, but also the most precise specification and preservation of the limits of this freedom in order that it can co-exist with the freedom of others. The highest task which nature has set for mankind must therefore be that of establishing a society in which freedom under external laws would be combined to the greatest possible extent with irresistible force, in other words of establishing a perfectly just civil constitution. (1991, 45–46, emphasis in original) Kant’s argument in this essay runs as follows: human progress is possible, but only in conditions of a civil society whose design allows this progress; because the progress is possible only as individuals become enlightened, and individual enlightenment is in turn possible only when individuals are free from improper coercion and paternalism, human progress is therefore possible only under a state that defends individual freedom. Kant believes that individuals have the best chance to be happy under a limited civil government, and he therefore argues that even such a laudable goal as increasing human happiness is not a justifiable role of the state: “But the whole concept of an external right is derived entirely from the concept of freedom in the mutual external relationships of human beings, and has nothing to do with the end which all men have by nature (i.e. the aim of achieving happiness) or with the recognized means of attaining this end. And thus the latter end must on no account interfere as a determinant with the laws governing external right” (“Theory and Practice,” 1991, 73, emphasis in original). The Kantian state is hence limited on the principled grounds of respecting agency; the fact that this limitation in his view provides the conditions enabling enlightenment, progress, and ultimately happiness is a great but ancillary benefit. Thus, the positions Kant takes on nonpolitical issues would seem to suggest a libertarian political position. And Kant explicitly avows such a state. In “Universal History,” he writes: Furthermore, civil freedom can no longer be so easily infringed without disadvantage to all trades and industries, and especially to commerce, in the event of which the state’s power in its external relations will also decline. . . . If the citizen is deterred from seeking his personal welfare in any way he chooses which is consistent with the freedom of others, the vitality of business in general and hence also the strength of the whole are held in check. For this reason, restrictions placed upon personal activities are increasingly relaxed, and general freedom of religion is granted. And thus, although folly and caprice creep in at times, enlightenment gradually arises. (1991, 50–51, emphasis in original) In “Theory and Practice,” Kant writes that “the public welfare which demands first consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large” and that “[n]o-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law” (1991, 80, emphasis in original, and 74). In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law” (1991, 133, emphasis in original).5 This stipulation becomes for Kant the grounding justification for the existence of a state, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that the state may—indeed, must—secure this condition of freedom, but undertake to do nothing else because any other state activities would compromise the very autonomy the state seeks to defend. Kant’s position thus outlines and implies a political philosophy that is broadly libertarian; that is, it endorses a state constructed with the sole aim of protecting its citizens against invasions of their liberty. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for their own or others’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 this severe limitation on the scope of the state’s authority must always be respected: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that a Kantian state protects against invasions of freedom and does nothing else; in the absence of invasions or threats of invasions, it is inactive.

#### [1] Libertarianism mandates a market-oriented approach to space—that negates

Broker 20 [(Tyler, work has been published in the Gonzaga Law Review, the Albany Law Review and the University of Memphis Law Review.) “Space Law Can Only Be Libertarian Minded,” Above the Law, 1-14-20, <https://abovethelaw.com/2020/01/space-law-can-only-be-libertarian-minded/>] TDI

The impact on human daily life from a transition to the virtually unlimited resource reality of space cannot be overstated. However, when it comes to the law, a minimalist, dare I say libertarian, approach appears as the only applicable system. In the words of NASA, “2020 promises to be a big year for space exploration.” Yet, as Rand Simberg points out in Reason magazine, it is actually private American investment that is currently moving space exploration to “a pace unseen since the 1960s.” According to Simberg, due to this increase in private investment “We are now on the verge of getting affordable private access to orbit for large masses of payload and people.” The impact of that type of affordable travel into space might sound sensational to some, but in reality the benefits that space can offer are far greater than any benefit currently attributed to any major policy proposal being discussed at the national level. The sheer amount of resources available within our current reach/capabilities simply speaks for itself. However, although those new realities will, as Simberg says, “bring to the fore a lot of ideological issues that up to now were just theoretical,” I believe it will also eliminate many economic and legal distinctions we currently utilize today. For example, the sheer number of resources we can already obtain in space means that in the rapidly near future, the distinction between a nonpublic good or a public good will be rendered meaningless. In other words, because the resources available within our solar system exist in such quantities, all goods will become nonrivalrous in their consumption and nonexcludable in their distribution. This would mean government engagement in the public provision of a nonpublic good, even at the trivial level, or what Kevin Williamson defines as socialism, is rendered meaningless or impossible. In fact, in space, I fail to see how any government could even try to legally compel collectivism in the way Simberg fears. Similar to many economic distinctions, however, it appears that many laws, both the good and the bad, will also be rendered meaningless as soon as we begin to utilize the resources within our solar system. For example, if every human being is given access to the resources that allows them to replicate anything anyone else has, or replace anything “taken” from them instantly, what would be the point of theft laws? If you had virtually infinite space in which you can build what we would now call luxurious livable quarters, all without exploiting human labor or fragile Earth ecosystems when you do it, what sense would most property, employment, or commercial law make? Again, this is not a pipe dream, no matter how much our population grows for the next several millennia, the amount of resources within our solar system can sustain such an existence for every human being. Rather than panicking about the future, we should try embracing it, or at least meaningfully preparing for it. Currently, the Outer Space Treaty, or as some call it “the Magna Carta of Space,” is silent on the issue of whether private individuals or corporate entities can own territory in space. Regardless of whether governments allow it, however, private citizens are currently obtaining the ability to travel there, and if human history is any indicator, private homesteading will follow, flag or no flag. We Americans know this is how a Wild West starts, where most regulation becomes the impractical pipe dream. But again, this would be a Wild West where the exploitation of human labor and fragile Earth ecosystem makes no economic sense, where every single human can be granted access to resources that even the wealthiest among us now would envy, and where innovation and imagination become the only things we would recognize as currency. Only a libertarian-type system, that guarantees basic individual rights to life, liberty, and the pursuit of happiness could be valued and therefore human fidelity to a set of laws made possible, in such an existence.

#### [2] Property rights in space can be consistent with international law

Simberg 12 [(Rand, MSE in technical management from West Coast University, recognized as an expert in space transportation by the Office of Technology Assessment) “Homesteading the Final Frontier A Practical Proposal for Securing Property Rights in Space,” Competitive Enterprise Institute, April 2012, <https://cei.org/wp-content/uploads/2012/04/Rand-Simberg-Homesteading-the-Final-Frontier.pdf>] TDI

But is it true that any recognition of off-planet property claims is de facto a violation of the Outer Space Treaty? Not necessarily. For instance, one could argue that the existence of the Moon Treaty is in and of itself a refutation of the notion that the Outer Space Treaty outlaws private property in space, or else there would be no need for another treaty that essentially explicitly does so. And there is at least one potential loophole that could be exploited by appropriately worded legislation. There are two key assumptions in the legal argument used by opponents of off-planet property claims: 1) that the recognition by a government would only recognize claims by its own citizens; and 2) that it would defend them by force. That need not necessarily be so. Under the treaty, it would in fact be possible for a government, or group of governments, to recognize the property claims of anyone who met specified conditions, regardless of their citizenship or nationality. Such cooperation would obviate the need for physical force to defend claims. The argument that the treaty permits individual property rights was actually made from the very beginning. In 1969, two years after the treaty went into force, the late distinguished space-law professor, Stephen Gorove, noted that under it, “[A]n individual acting on his own behalf or on behalf of another individual or a private association or an international organization could lawfully appropriate any part of outer space, including the [M]oon and other celestial bodies.”32 This clearly provides support for the concept of individual claims off planet under Article II.