### Framing

#### I affirm the resolution: the appropriation of outer space by private entities is unjust.

#### My value is justice and my criterion is consistency with the common heritage principle of mankind (CHP for short) – Prefer:

**1] Justice and Morality are not the same – the resolution specifies that we debate the implications of private entities appropriating outer space on justice, and not on morality.**

**Bierson 21** (Marshall Bierson, pursuing a PhD in philosophy at Florida State University, 2021, accessed on 12-26-2021, Victory Briefs, January/February 2022 LD Brief, pdf)

**Justice is different from morality**, or more precisely justice is a proper subset of morality. **If something is unjust then it’s immoral, but something can be immoral without it being unjust.** I might do something morally wrong if I refuse to attend your birthday party, but it would be weird to say that missing your birthday was unjust. Rather it was rude, or inconsiderate, or mean. It might be immoral to waste my money gambling, but it would be weird to say that wasting the money was unjust. Rather it was imprudent, or irresponsible, or profligate. It might be immoral to not save a child from a burning building, but shrinking away is not unjust. Rather it was cowardly or selfish. **There are lots of actions that we might consider[ed] immoral but which don’t really seem** unjust. These might include **gossiping**, neglecting a friend, consuming pornography, **committing suicide,** refusing to forgive someone after they apologize, refusing to help your friend with their homework, **or** callously telling someone the truth knowing it will hurt their feelings. It would be strange to call any of these acts unjust because justice is the virtue concerned with what we owe to each other. It might be a good idea for me to forgive you, but I don’t owe you forgiveness. It might be cruel to gossip about someone, but that does not mean the person has a right that you do not talk about them. **[so] Suicide might display a failure to value human life, but since the person takes their own life, they are not violating the rights of anyone else.**

**2] Even if the neg proves that the resolution is morally bad, but doesn’t tie anything back to justice, you affirm on presumption because I debated the resolution as the writers intended**

**3] CHP is a method of distributive justice**

**Noyes 11** John E. Noyes (the Roger J. Traynor Professor of Law, California Western School of Law). “The Common Heritage of Mankind: Past, Present, and Future.” 40 Denv. J. Int'l L. & Pol'y 447 (2011). JDN. <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1156&context=djilp>

The next three features concern the utilization of the area and resources in question. Some formulations of the CH principle explicitly provide that protection of the environment entails a sharing of burdens as well as benefits,15 and note that such protection involves an obligation to take into account the interests of future generations.16 Because non-peaceful uses of an area could destroy its resources, the peaceful purposes prong may also encompass concern with future generations. The equitable sharing of benefits, implying distributive justice, is the most novel and most controversial feature of the CH principle. This element may imply a sharing or broadening of the base of knowledge about resources. It also encompasses sharing the material benefits or proceeds derived from exploiting resources. Opposition to this benefit-sharing feature, as well as to the prohibition on sovereignty, help explain why the CH principle has not been applied to rain forests or other resources located within national territory.1 7 The last feature, governance through a common management system, reflects the view that "humankind" as a whole is responsible for managing the area or resource in question. The CH principle anticipates the creation of appropriate institutional machinery or other cooperative arrangements to implement such governance.

#### 4] The existence of humanity is social – this justifies an obligation to preserve interpersonal relationships as they are core to our being.

**Bickhard 01** (Mark Bickhard, Professor of Cognitive Robotics and the Philosophy of Knowledge, at Lehigh University -- interests are in theoretical philosophy and theoretical psychology, 12-9-2001, accessed on 1-7-2022, Lehigh, "The Social Ontology of Persons", <https://www.lehigh.edu/~mhb0/SocOntPersons.pdf>)

Ontologically Social Persons An infant is a socially tuned biological creature with marvelous capacity for development into a participant in, and co-creator of, social realities. As the infant develops, the ability to interact with the physical world and the world of abstractions, such as numbers, increases enormously, but the social aspect of interaction occupies an ever greater portion of overall interactive capabilities. The individual becomes a language user, and becomes a generating member of conversations, social hierarchies, role relationships, institutionalized relationships, friendships, intimate partnerships, collegial relationships and those of superiors and subordinates, and so on. The infant becomes a social being; a social and cultural being, a person, emerges in the development of the infant. The notion of emergence is appropriate here (Bickhard, 2000c; R. J. Campbell & Bickhard, in preparation). In infancy we begin as primarily biological creatures with a superlative openness to social development. In adulthood, the biology is different, but not massively so. Instead what has most changed between infancy and adulthood is the emergence of an entirely new kind of being, one who participates in society and culture and history. And the person, in so participating, participates in the emergent creation of society in turn. Non-aggregative novel properties, myriads of them, appear in the emergence of the social person, and, further, we find major and widespread examples of downward causation (D. T. Campbell, 1974b, 1990) such as building houses and highways and highspeed internet systems. 8 The person, then, as distinct from the biological body, is strongly social in [their] his or her ontology. The person is constituted in the multiple ways of being social that that individual has developed in that society and culture and historical time. And, to re-iterate, this is largely an ontology of language processes: of discussions, lectures, arguments, commands, sympathies, jokes, rituals, and so on and on. The ontology of the person is massively social, which, in turn, is massively an ontology of language.

**5] CHP provides a legal guarantee of joint property – comes prior to all other frameworks as it’s a pre-requisite to the survival of quality human relationships, which was just shown to be key to our ontological purpose as a species.**

**Arnold 1** Rudolph Preston Arnold (President, International Law Society). “The Common Heritage of Mankind as a Legal Concept.” 9 Int'l L. 153 (1975). JDN. https://heinonline.org/HOL/LandingPage?handle=hein.journals/intlyr9&div=15&id=&page=

The common heritage of mankind concept when used in any international document can and should be given a precise legal meaning. The phrase should be interpreted as a legal expression used to connote a rule of joint property that prevents any co-owner from disposing of or using the common property of all states without first obtaining the consent of all [others] states as expressed in a convention, treaty or declaration which has become binding upon all states. The common interest which men of all nations share in protecting the environment and preserving the welfare of mankind requires such a rule. Such a rule is an acknowledgement that nations must share resources as a prerequisite for survival. The idea that one joint owner must obtain consent of the other owners before exercising dispositive rights might be new to many trained in the Anglo-American common law tradition. However, the difficulty lies, not in the new idea, but in escaping from the old ones. The nations of the world must seek out legal concepts which are beneficial to the harmonious development and use of the world's limited resources. The common heritage of mankind is an example of one such beneficial legal concept.

### Offense

**1] CHP rules out private appropriation – there is no legal means to acquire space because it doesn’t have a governing body that exercises jurisdiction over it.**

**Joyner 1** Christopher C. Joyner (Professor of Government and Foreign Service at Georgetown University). Legal Implications of the Concept of the Common Heritage of Mankind. International and Comparative Law Quarterly, 35(01), 190–199. 1986. JDN. https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/legal-implications-of-the-concept-of-the-common-heritage-of-mankind/27C87188CE97BA536F9FE5DD8E048C78

Five principal elements appear to characterize the "common heritage of mankind" notion when applied to common space areas. First, these regions would not be subject to appropriation of any kind, either public or private, national or corporate.4 Under the CHM doctrine, common space areas would be regarded legally as regions owned by no one, though hypothetically managed by everyone. Sovereignty would be absent, as would all its legal attributes and ramifications.5 Thus, no jurisdictional privileges, rights or obligations determined by sovereignty considerations would exist; there would be no sovereign authority in the Austinian sense to set policy or to issue commands; and no agent of any authority would exist to enforce such commands in the region.6 In short, an international area under a CHM regime could not be owned legally in whole or in part by any State or group of States; legally the entire area would be administered by the international community.7

#### 2] This is uniquely different from private property on Earth, where governments have the authority to grant property rights to private individuals and entities. Don’t buy the argument that “OST is a sovereign governance body over space” because it simply isn’t true. The reality is that the OST emphasizes outer space as a public area not able to be owned by any sovereign state or private entity, meaning privatization of outer space runs counter to international law.

**van Eijk 20** [(Cristian, finishing an accelerated BA in Law at the University of Cambridge. He holds a BA cum laude in International Justice and an LLM in Public International Law from Leiden University, and has previously worked at the T.M.C. Asser Institute and the International Commission on Missing Persons.) “Sorry, Elon: Mars is not a legal vacuum – and it’s not yours, either,” 5/11/20, Völkerrechtsblog, [https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either](https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either%20)]

On October 28th, Elon Musk’s company SpaceX published its Terms of Service for the beta test of its Starlink broadband megaconstellation. If successful, the project purports to offer internet connection to the entire globe – an admirable, albeit aspirational, mission. I must confess: Starlink’s terrestrial impact is a pet issue of mine. But this time, something else caught my attention. Buried in said Terms of Service, under a section called “Governing Law”, I discovered this curious paragraph: “Services provided to, on, or in orbit around the planet Earth or the Moon… will be governed by and construed in accordance with the laws of the State of California in the United States. For Services provided on Mars, or in transit to Mars via Starship or other colonization spacecraft, the parties recognize Mars as a free planet and that no Earth-based government has authority or sovereignty over Martian activities. Accordingly, Disputes will be settled through self-governing principles, established in good faith, at the time of Martian settlement.” CAN HE DO THAT? In short, the answer is a resounding “no”. Outer space is already subject to a system of international law, and even Elon Musk cannot colombus a new one. Who’s responsible for Elon Musk? Two provisions of the Outer Space Treaty (OST), both also customary, are particularly relevant here. OST article II: “Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” OST article III: “States… shall carry on activities in the exploration and use of outer space, including (…) celestial bodies, in accordance with international law”. SpaceX is a private entity, and is not bound by the Outer Space Treaty – but that does not mean it can opt out. Its actions in space could have consequences for the United States in three ways. First, the US, as SpaceX’s launch state, bears fault-based liability for injury or damage SpaceX’s space objects cause to other states’ persons or property (OST article VII, Liability Convention articles I, III). Second, the US, as SpaceX’s state of registry, is the sole state that retains jurisdiction and control over SpaceX objects (OST article VIII, Registration Convention article II). Both refer to objects in space and are irrelevant. According to article VI OST, States “bear international responsibility for national activities in outer space”, including Mars, including those by “non-governmental entities”. The US, as SpaceX’s state of incorporation, must authorise and continuously supervise SpaceX’s actions in space to ensure compliance with the OST (OST article VI) and international law (OST article III). In practice, this task is done by the US Federal Communications Commission, which licenses and regulates SpaceX. Article VI OST sets a specific rule of attribution, supplementing the customary rules of state responsibility (Stubbe 2017, pp. 85-104). SpaceX acts with US authorisation, and its conduct in space within and beyond that authorisation is attributable to the US (ARSIWA articles 5, 7). In the absence of circumstances precluding wrongfulness, the result is straightforward. If SpaceX breaches a US obligation under international law, the US bears responsibility for an internationally wrongful act. The principle of non-appropriation SpaceX risks breaching OST article II, the “cardinal rule” of space law (Tronchetti, 2007). This principle is a jus cogens norm (Hobe et al. 2009, pp. 255-6) establishing Mars as res communis, rather than terra nullius. I must acknowledge, with tongue firmly in cheek, that SpaceX is partly correct – states have no sovereignty on Mars. But that does not leave Mars a “free planet” up for grabs – SpaceX has no sovereignty either. On plain reading, article II OST lacks clarity on two key points: i) whose claims are prohibited, and ii) what exactly constitutes a ‘claim of sovereignty’. The first has been answered; per the then-customary interpretative rules and travaux préparatoires, there is quite broad academic consensus (Hobe, et al. 2017; Tronchetti, 2007; Pershing, 2019; Cheney, 2009) that sovereign claims include those by private entities. This is consistent with OST article VI; private entities act in space with state authorisation, and thus state authority. It also accords with the law of state responsibility, wherein conduct of entities exercising state authority is attributable to the state, even if ultra vires (ARSIWA articles 5, 7). The second issue is more complex. Much has been written on whether claims to space resources or space property (Nemitz v United States) are sovereign. In this case, the territorial claim is less clear; is establishing a jurisdiction a sovereign claim “by other means”? SpaceX purports not to create law horizontally via contract, but to establish the only law on Mars – a vertical structure endemic to sovereign legal orders. International caselaw on territorial acquisition agrees; sovereign acts include “legislative, administrative and quasi-judicial acts” (Case concerning sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia v. Malaysia), para 148; Decision regarding delimitation of the border between Eritrea and Ethiopia, para. 3.29) with the exercise of jurisdiction and local administration having “particular, probative value” (Minquiers and Ecrehos (France v. UK), p. 22). Also relevant are attempts to exclude other states’ jurisdiction (Island of Palmas (USA v. Netherlands), pp. 838-9). An attempt by SpaceX to prescribe its own jurisdiction on Mars would constitute a sovereign claim in breach of OST article II, and entail US responsibility for an internationally wrongful act. Of course, as Thom Cheney points out, this is all just words until it isn’t – but there is cause for concern. The Federal Communications Commission (FCC) has been consistently accommodating to commercial space actors, and to SpaceX in particular, preferring to leave regulation up to markets rather than regulatory bodies. As Commissioner O’Rielly said upon granting SpaceX market access: “our job at the Commission is to approve the qualified applications [by SpaceX et al.] and then let the market work its will.” It is not unforeseeable that the FCC would prioritise corporate objectives over principle, and under an administration increasingly dismissive of the international rule of law, might fail to regulate SpaceX in case of breach. Both SpaceX’s actions or FCC inaction risk breaching OST article II, and could leave the US facing reparations claims from injured state(s). Mars nullius: A thought experiment But this problem extends beyond the legal. As previously mentioned, the OST, especially article II, designates Mars as res communis. This precludes territorial acquisition by occupation, which can only legitimately occur on terra nullius. But indulge me for a moment in a half-serious thought experiment. No provision of outer space law explicitly designates Mars res communis. The exploration and use of Mars is the “province of mankind” per OST article I (emphasis added), but that language was specifically diluted in negotiations from the originally-proposed “common heritage of mankind”. The Moon is the “common heritage of mankind” (Moon Agreement, article 5), but only for 18 states. The United States has recently and repeatedly attempted to erode the status of space as res communis, including by treaty and by Executive Order, and it is not alone. If current trends continue, Mars nullius may come sooner than we think. That line between res communis and terra nullius is the principal legal obstacle to acquiring extra-terrestrial land by the legal process of occupation. In territorial acquisition cases, international law distinguishes between the act of attempting to exercise jurisdiction or sovereignty (called an ‘effectivité‘), and the legal right to do so (sovereign title). The former is a question of fact; the latter is a question of law. Absent other sovereign claims, an effectivité compliant with international law is “as good as title” (Island of Palmas (USA v. Netherlands), p. 839; Frontier Dispute (Burkina Faso v. Mali), para 63). Such an effectivité would contravene international law now, but that law is in flux. What if the current rule proves less-than-robust? As shown above, the elements of successful effectivité, state attribution and a sovereign act with sovereign intention, are satisfied. Slipping this provision on the future Martian legal order into satellite broadband Terms of Service serves little purpose – except as basis for a claim prior to some future critical date. Crucially, SpaceX is not an international actor. It is an American company subject to US law and continuing US supervision. In both Island of Palmas and the Pedra Branca Dispute, corporations acting under national authorisation and regulation established sovereign titles for their respective states. A future attempt by SpaceX to act on its Terms could be received by other states, either legally or politically, as an American colonisation of Mars. Concerns and conclusions Three primary concerns emerge from this picture. First, non-appropriation is cardinal for a reason – if breached, international peace and security in space hangs in the balance. Second, even signalling the implementation of a provision so contrary to US obligations without censure risks the international rule of law. Finally, and most pragmatically, American vulnerability to future claims by other states should concern American citizens; it is their money, their national reputation on the line. Commercial actors in space present great innovative and developmental potential for all mankind (Aganaba-Jeanty, 2015), but their so-called ‘self-regulatory’ or administrative role should be taken with a healthy scepticism. We already know how that story ends. As Bleddyn Bowen put it, “[t]he continuation of the term ‘colonies’ in describing the potential human future in space should raise political and moral alarm bells immediately given the last 500 years of international relations. Will billionaires run their ‘colonies’ the way they run their factory floors, and treat their citizens like they treat their lowest paid employees?” As humanity expands into space, we will need new legal rules and understandings of sovereignty to govern the process (Leib, 2015). The current legal order is a critical framework that, without supplement, will someday prove incomplete. The legal governance of Mars is an excellent example. However, those new laws must fit into that framework; they cannot hang suspended in a vacuum. We have seen previously the dangers of rashly governing the global commons based on aspiration and resource hunger (Ranganathan, 2016 and 2019). Martian soil cannot become the manganese nodules of this century. If anything, it is imperative on us to recognise and correct the inequities the current rules have created (Craven, 2019) before proposing new ones. Space law is an established rulebook likely to undergo some high-octane developments in coming decades. While Elon is welcome to the table, he can’t keep sucking the air from the room. It leaves us space lawyers just shouting into the void.

**3] CHP protects future generations**

**Joyner 2** Christopher C. Joyner (Professor of Government and Foreign Service at Georgetown University). Legal Implications of the Concept of the Common Heritage of Mankind. International and Comparative Law Quarterly, 35(01), 190–199. 1986. JDN. https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/legal-implications-of-the-concept-of-the-common-heritage-of-mankind/27C87188CE97BA536F9FE5DD8E048C78

Important, too, are the legal implications of "heritage" as presented in a CHM regime. Clearly, **the concept of "heritage" conveys the proposition that common areas should be regarded as inheritances transmitted down to heirs**, or as estates which by birthright are passed down from ancestors to present and future generations.33 A **CHM** regime **would therefore designate that region as an international patrimony, much the same as a piece of property or estate inherited by one generation from its predecessor.**34 Thus, a CHM regime would insist that **all activities in or around the international area should respect the interests of future generations**, especially in making decisions that affect whether, when and how the region's resources are to be used, exploited, developed and distributed. In legal terms, the concept of "common heritage" would require that serious scrutiny be given to every activity in the area in order to prevent resource waste and to preclude environmental abuse. **To fail in the protection, conservation, preservation and prudential management of the region and its resources would breach the trust and legal obligation implicit in responsibly supervising the earth's heritage for mankind in the future.**35

### Further Specification

**CHP extends to all of outer space**

**Oduntan 1** Gbenga Oduntan (Lecturer in Law, Canterbury Christ Church University College, England; Legal Adviser to the Nigerian Government and Member, United Nations Nigerian/Cameroon Mixed Sub-Commission on the Demarcation of the Boundary between Nigeria and Cameroon) Imagine There Are No Possessions: Legal and Moral Basis Of The Common Heritage Principle In Space Law. Manchester Journal of International Economic Law, 2 (1). pp. 30-59. ISSN 1742-3945. 2005. JDN. https://kar.kent.ac.uk/1767/1/Imagine%2520There%2520are%2520No%2520Possessions.pdf

Another fine distinction, which has been advanced by proponents of the res nullius principle is that under customary international law, resources on the moon and celestial bodies are by their very nature res nullius, therefore, appropriation is legally possible. Christol, for instance, is of the opinion that there is a difference between the spatial area of the moon including celestial bodies and their natural resources.22 To explain this unacceptable position the proponents seek to make a distinction between free space and pathways on the one hand and celestial bodies on the other. With regard to free space it is said that by its very nature and by analogy to the high seas there can be no appropriation since no sovereignty may be claimed without reference to dry land. Thus, the moon and celestial bodies were merely res nullius whereas outer space i.e. free space stricto sensu was res extra commercium and the principles of non-appropriation and free access were valid both before and after the entry into force of the Outer Space Treaty on 10 December 1967. This view is borne out of the classical but mistaken view of the nature of outer space that lawyers have. It is wrongfully assumed that outer space is a void in which solid celestial bodies float. The easiest way to puncture Christol's argument is to admit that while of course there are geophysical differences between the moon’s surface on which natural resources are presently to be found and the gases and cosmic dust which constitutes the other ‘spatial territories’ he refers to, however, that is the whole point of giving the widest interpretations to, the scope of operation of the CHM principle. We cannot separate the spatial territory from the surface not only because the law as it is written in the Space Treaty (1967) does not do so but because those very rarefied gases, cosmic dust and energy that constitute and fill the void that is known as outer space themselves may one day if not now constitute valuable natural resources. It is not when that day arrives that we would start to develop new laws to include further spheres within the operation of the CHM principle. Therefore, it is better to adopt the view that the CHM principle applies to the whole of outer space including the celestial bodies, as well as their surface and subsurface.23

**It's impossible to rationally distinguish parts of space in relation to appropriation**

**Oduntan 2** Gbenga Oduntan (Lecturer in Law, Canterbury Christ Church University College, England; Legal Adviser to the Nigerian Government and Member, United Nations Nigerian/Cameroon Mixed Sub-Commission on the Demarcation of the Boundary between Nigeria and Cameroon) Imagine There Are No Possessions: Legal and Moral Basis Of The Common Heritage Principle In Space Law. Manchester Journal of International Economic Law, 2 (1). pp. 30-59. ISSN 1742-3945. 2005. JDN. https://kar.kent.ac.uk/1767/1/Imagine%2520There%2520are%2520No%2520Possessions.pdf

Another way of viewing the scope of application of the CHM principle is to ask if the principle applies to all the contents of empty space. The question is does space law especially the CHM principle apply to the countless mass of meteors, rocks, rarefied gases etc. over and around the earth. The generic terms found in the space treaties (for instance, 'celestial bodies' and 'the moon') make it difficult to tell whether these terms cover all natural objects in outer space irrespective of their size, structure or flight pattern.26 It was in fact suggested once that smaller bodies should have a different status from outer space proper.27 In other words only “[t]he Sun and all planets and the moon” were not to be appropriated but “meteorites...any rock in space which can really be used and controlled” should belong to another class.28 The stance that smaller natural bodies should be subject to appropriation or regarded as terra nullius by virtue of their size is unacceptable. Such a proposition is as absurd as the corresponding theory among some air lawyers to limit sovereignty over national airspace to below dense clouds or those legal theorists that say that icebergs, which flow onto the high seas, should retain the sovereignty of the territory from whence they broke off. In the first place the space treaties, which pronounce the CHM Principle, did not establish this difference. Secondly, it is quite difficult to see how anyone could prescribe the minimum size below which an object would cease to be regarded as a celestial body. The preferred view is that which holds that in the present state of man's knowledge, there is little that can serve as a basis for any distinction between a natural or physical definition of a celestial body, on one hand and a legal definition on the other.29 For all relevant purposes, therefore, the CHM principle applies not only to all 'celestial bodies' no matter how small or large and no matter in which solar system in the infinity of space they are found but also to all that may be considered 'free space' including gases, particles and cosmic dust. The CHM principle, however, is not applicable at all to the airspace above national territory. As regards the airspace over territories on earth over which the CHM principle applies under another body of law such as Antarctica (the World Park concept) or the Area (in the law of the sea) it may be suggested that the legal status of the airspace above those territory cannot be different from the status of the underlying territory.30 Therefore, the airspace over the area is also the common heritage of mankind but it derives its status in being so not from space law but from the laws of the sea or Antarctic law as the case may be.

**CHP describes space as collectively owned by all of humanity**

**Arnold 2** Rudolph Preston Arnold (President, International Law Society). “The Common Heritage of Mankind as a Legal Concept.” 9 Int'l L. 153 (1975). JDN. https://heinonline.org/HOL/LandingPage?handle=hein.journals/intlyr9&div=15&id=&page=

At the outset, it is necessary to give the phrase, common heritage of mankind, a specific literal meaning. The word common suggests a thing shared in respect to title, use or enjoyment, without apportionment or division into individual parts. The word heritage suggests property or interests which are reserved to a person by reason of birth, something handed down from one's ancestors or the past. In defining mankind, it is necessary to make a distinction between mankind and man. Mankind refers to the collective group, whereas man refers to individual men and women. Thus, human rights are those which individuals are entitled to by virtue of their membership in the human race, whereas the rights of mankind relate to the collective entity. Mankind is not yet unified under one world government, therefore the collective entity of mankind is represented by the various nations of the world. Thus the exercise of rights to the common heritage of mankind appertains to nations, representing mankind, and not individuals. The use of the phrase common heritage of mankind implies or prescribes worldwide common ownership of the seabed and its resources beyond the limits of national jurisdiction. The Legal Rule Roman law held that certain objects were res communes, the property of all, such that these things could not be the object of private rights. These objects generally consisted of: the air, rainwater, water of rivers, the sea and its shores.6 In current international law, res communes generally refers to the high seas, [and] outer space, and celestial bodies, all of which have the characteristic that they may not be subject to the sovereignty of any state, and states are bound to refrain from taking acts which might adversely affect their use by other states.7 The expression in the declaration, that the seabed shall be the common heritage of mankind and not subject to state appropriation conforms to the Roman and modern legal concept of res communes. Since the seabed and its resources can be considered a res communes humanitates, the property of all mankind, for a disposition of such property consent ought to be obtained from all mankind as expressed through the states as representative of mankind. Viewed from this perspective, the phrase common heritage of mankind could be said to create[s] a legal rule of joint property in the seabed and its resources, which would require that without the prior agreement of all joint owners, the states of the world, no individual state could exercise its individual right to the property held jointly with the other states of the world.