# 1AC

### FW

#### I affirm that the appropriation of outer space by private entites is unjust

#### The standard is Maximizing expected well-being –

#### 1] Binding – pain and pleasure are the only things with intrinsic value and disvalue – if I put my hand on a hot stove I will pull away – ethics must be binding bc if they arent then its impossible to generate obligations

#### 2] Death is bad – it’s impossible to pursue pleasure if you are dead, that means that we should always try to prevent death to give subjects the ability to pursue pleasure.

#### 3] Actor specificity – Governments have the obligation to maximize the pleasure of their citizens – proven through laws that are desiged to stop pain towards other subjects – Drunk driving laws, murder, robbery ect.

4] Moral uncertainty means extinction first  
**Bostrom 12** [Nick Bostrom. Faculty of Philosophy & Oxford Martin School University of Oxford. “Existential Risk Prevention as Global Priority.” Global Policy (2012)]  
These reflections on **moral uncertainty suggest** an alternative, complementary way of looking at existential risk; they also suggest a new way of thinking about the ideal of sustainability. Let me elaborate.¶ **Our present understanding of axiology might** well **be confused. We may not** nowknow — at least not in concrete detail — what outcomes would count as a big win for humanity; we might not even yet **be able to imagine the best ends** of our journey. **If we are** indeedprofoundly **uncertain** about our ultimate aims,then we should recognize that **there is a great** option **value in preserving** — and ideally improving — **our ability to recognize value and** to **steer the future accordingly. Ensuring** that **there will be a future** version of **humanity** with great powers and a propensity to use them wisely **is** plausibly **the best way** available to us **to increase the probability that the future will contain** a lot of **value.** To do this, we must prevent any existential catastrophe.

### 1AC – Adv – Debris

#### The advantage is Debris –

#### Privatization of space leads to unchecked debris.

Muelhaupt et al. 19 – Theodore, Marlon Sorge, Jamie Morin, and Robert Wilson, 6/18/19, Center for Orbital and Reentry Debris Studies, Center for Space Policy and Strategy, The Aerospace Corporation, 30 year Space Systems Analyst and Operator, [“Space traffic management in the new space era,” Journal of Space Safety Engineering, <https://www.sciencedirect.com/science/article/pii/S246889671930045X?via%3Dihub>] Justin

The last decade has seen rapid growth and change in the space industry, and an explosion of commercial and private activity. Terms like NewSpace or democratized space are often used to describe this global trend to develop faster and cheaper access to space, distinct from more traditional government-driven activities focused on security, political, or scientific activities. The easier access to space has opened participation to many more participants than was historically possible. This new activity could profoundly worsen the space debris environment, particularly in low Earth orbit (LEO), but there are also signs of progress and the outlook is encouraging. Many NewSpace operators are actively working to mitigate their impact. Nevertheless, NewSpace represents a significant break with past experience and business as usual will not work in this changed environment. New standards, space policy, and licensing approaches are powerful levers that can shape the future of operations and the debris environment. 2. Characterizing NewSpace: a step change in the space environment In just the last few years, commercial companies have proposed, funded, and in a few cases begun deployment of very large constellations of small to medium-sized satellites. These constellations will add much more complexity to space operations. Table 1 shows some of the constellations that have been announced for launch in the next decade. Two dozen companies, when taken together, have proposed placing well over 20,000 satellites in orbit in the next 10 years. For perspective, fewer than 8100 payloads have been placed in Earth orbit in the entire history of the space age, only 4800 [1] remain in orbit and approximately 1950 [2] of those are still active. And it isn't simply numbers – the mass in orbit will increase substantially, and long-term debris generation is strongly correlated with mass. Table 1. Some announced NewSpace constellations. Operator Number of satellites Altitude (km) Country SpaceX V-band 7518 335–345 US Capella 48 350–650 US Planet Swift 6 350–650 US Black Sky 60 450 US Satellogic NuSat 300 500 Argentina Kepler 140 550 US SpaceX Starlink 1584 550 US Skybox 30 576 US Fleet 100 580 Australia Amazon Kuiper 3236 590–630 US Commsat 800 600 China Kineis 20 600 France Yalini 135 600 Canada Spire 100 651 US Planet Doves 150 675 US Orbcomm 31 750 US Iridium 72 780 US Theia 112 800 US Lucky Star 156 1000 China Telesat LEO 72 1000 Canada Hongyan 300 1100 China Xinwei 32 1100 China SpaceX Starlink 2825 1110–1325 US OneWeb 720 1200 ESA Telesat LEO 45 1248 Canada Astrome Tech 600 1400 India LeoSat 108 1400 US Globalstar 40 1412 US This table is in constant flux. It is based largely on U.S. filings with the Federal Communications Commission (FCC) and various press releases, but many of the companies here have already altered or abandoned their original plans, and new systems are no doubt in work. Although many of these large constellations may never be launched as listed, the traffic created if just half are successful would be more than double the number of payloads launched in the last 60 years and more than 6 times the number of currently active satellites. Current space safety, space surveillance, collision avoidance (COLA) and debris mitigation processes have been designed for and have evolved with the current population profile, launch rates and density of LEO space. By almost any metric used to measure activity in space, whether it is payloads in orbit, the size of constellations, the rate of launches, the economic stakes, the potential for debris creation, the number of conjunctions, NewSpace represents a fundamental change. 3. Compounding effects of better SSA, more satellites, and new operational concepts The changes in the space environment can be seen on this figurative map of low Earth orbit. Fig. 1 shows the LEO environment as a function of altitude. The number of objects found in each 10 km “bin” is plotted on the horizontal axis, while the altitude is plotted vertically. Objects in elliptical orbits are distributed between bins as partial objects proportional to the time spent in each bin. Some notable resident systems are indicated in blue text on the right to provide an altitude reference. The (dotted) red line shows the number of objects in the current catalog tracked by the U.S. Space Surveillance Network (SSN). All the COLA alerts and actions that must be taken by the residents are due to their neighbors in the nearby bins, so the currently visible risk is proportional to the red line.



Fig. 1. Objects in LEO orbit by altitude per 10 km altitude bin. Elliptical orbit objects distributed by portion spent in each bin. Some notable existing resident systems are listed on the right. New residents, including some replacement systems, are on the left. (For interpretation of the references to color in this figure, the reader is referred to the web version of this article.) The red line of the current catalog does not represent the complete risk; it indicates the risk we can track and perhaps avoid. A rule of thumb is that the current SSN LEO catalog contains objects about 10 cm or larger. It is generally accepted that an impact in LEO with an object 1 cm or larger will cause damage likely to be fatal to a satellite's mission. Therefore, there is a large latent risk from unobserved debris. While we cannot currently track and catalog much smaller than 10 cm, experiments have been performed to detect and sample much smaller objects and statistically model the population at this size [3]. The (solid) blue line represents the model of the 1 cm and larger debris that is likely mission-ending, usually called lethal but not trackable. If LEO operators avoid collisions with all the objects in the red line, they are nonetheless inherently accepting the risk from the blue line. This risk is already present. The (dashed) orange line is an estimate of the population at 5 cm and larger and is thus an estimate of what the catalog might conservatively be a few years after the Space Fence, a new radar system being built by the Air Force, comes on line (currently planned for 2019) [4]. Commercial companies offering space surveillance services, such as LeoLabs, ExoAnalytics, Analytic Graphics Inc., Lockheed, and Boeing, might also add to the number of objects currently tracked. Space Policy Directive 3 (SPD-3) [13] specifically seeks to expand the use of commercial SSA services. Existing operators can expect a sharp increase in the number of warnings and alerts they will receive because of the increase in the cataloged population. Almost all the increase will come from newly detected debris [5]. The pace of safety operations for each satellite on orbit will significantly change because of the increase in the catalog from the Space Fence. This effect is compounded because the NewSpace constellations described in Table 1 will drastically change the profile of satellites in LEO. The green bars in Fig. 1 represent the number of objects that will be added to the catalog (red or orange lines) from only the NewSpace large LEO constellations at their operational altitudes. This does not include the rocket stages that launch them, or satellites in the process of being phased into or removed from the operational orbits. Neighbors of one of these new constellations may face a radically different operations environment than their current practices were designed to address. Satellites in these large LEO constellations typically have planned operational lifetimes of 5–10 years. Some companies have proposed to dispose of their satellites using low thrust electric propulsion systems, which would spiral satellites down over a period of months or years from operating altitudes as high as 1500 km through lower orbits where the Hubble Space Telescope, the International Space Station, and other critical LEO satellites operate [6]. Similar propulsive techniques would raise replacement satellites from lower launch injection orbits to higher operational orbits. These disposal and replenishment activities will add thousands of satellites each year transiting through lower altitudes and posing a risk to all resident satellites in those lower orbits. More importantly, failures will occur both among transiting satellites and operational constellations, potentially leaving hundreds more stranded along the transit path. Aerospace studies [7–9] have shown that failed satellites, whether they fail during operations or fail during disposal, can pose as great or even greater risk than the many thousands of operational satellites (Fig. 2). Given the rapid flux in the proposed large LEO constellations (LLC), we created a Future Constellations Model (FCM) with elements that represented the characteristics of the different systems being proposed. In our models, almost all the collisions and the resulting debris from those collisions occur because of failed systems. Most large constellation operators intend to perform active collision avoidance for active systems, whether operational or in some stage of check-out or disposal, but failed satellites are assumed to be incapable of maneuver. Fig. 2 also shows that satellites in the disposal phase can contribute to collisions similarly to satellites in the operational phase. Fig 2 Download : Download full-size image Fig. 2. Collisions during operations and disposal over 10 years for various NewSpace Future Constellation Models (FCMs). 4. A notional illustration of workload The highest risk to operational satellites comes from the lethal but non-trackable debris that is depicted in the blue line in Fig. 2. However, operators perform collision avoidance only on the objects that can be tracked and cataloged. Advances in tracking and NewSpace launches will both act to increase this workload. A key element of the problem is that an increase in the LEO population will lead to an increase in close approaches to existing satellites [5], and the potential for accidental collisions. Conjunction prediction, collision probability (Pc), and maneuver planning for most existing satellite operators is a time- and personnel-intensive operation. Orbit analysts, and propulsion, navigation, and communications systems personnel are involved in evaluating and planning maneuvers over several days and must do so even if the ultimate decision is to “fly through” a close approach. Since most existing systems have small numbers of vehicles and the number of conjunctions any given operator experiences is relatively small, COLA remains a manual process. For systems not designed with automated maneuver planning, a COLA assessment that progresses all the way to a maneuver plan can consume considerable effort, whether or not the maneuver is executed. If a large constellation is deployed next to an existing resident system, the existing system may experience many conjunctions and alerts due to its close proximity of the dense new constellation. A sufficiently large constellation will, in effect, form a “shell” where frequent opportunities for conjunctions will be created. For example, Fig. 3 depicts a fictional scenario where 1225 “New” satellites are distributed in 35 planes in circular orbits at 1000 km altitude, at 98° inclination. These are placed near a hypothetical “Old” six-satellite constellation operating in a nearly circular orbit at the same altitude and 63° inclination. Following a common operations practice, we assume that the Old satellite operators flag a conjunction at Pc> 10−7, start COLA assessment with additional tracking at Pc> 10−6, and plan a COLA maneuver when the Pc> 10−5. A conjunction with Pc > 10−4 would typically be considered a significant risk leading most operators to maneuver. Fig 3 Download : Download full-size image Fig. 3. “New” large LEO constellation at same average altitude as “Old” existing constellation. Currently, the Old system in this example would typically see a warning (Pc > 10−6) a few times a month at this altitude, and of those, a few per year might cross the maneuver threshold. For the operations center, this would be multiplied by the number of satellites in the constellation. When the New system parks nearby, the number of COLA alerts jumps substantially. But the number of alerts depends entirely on the error bubble, (covariance) used. If the typical errors of the public external tracking data and the orbit propagation methods that are widely available (General Perturbations, or GP) are used for both constellations, over a 30-day period we see 129 conjunctions that cross the threshold for COLA assessment (Pc> 10−6), and 53 that cross the maneuver planning threshold (Pc> 10−5) (Fig. 4). This is nearly 2 per day. This could be an enormous workload for a manual process. If a high accuracy catalog (Special Perturbations, or “SP”) and a high-fidelity propagator with its typical covariances is used, the number of conjunctions goes from 129 to a more manageable 10. SP data is maintained by the Air Force, but it is not widely available. It is interesting to note that nine of those 10 crossed the maneuver-planning threshold, and of those, four crossed the Pc> 10−4 where many operators would choose to execute a maneuver. Compared to GP, the SP-quality data resulted in far fewer warnings and flagged four very close conjunctions. The operations center would have been able to concentrate on fewer “false alarms”. We also computed the case where GPS-quality owner-operator data was used for both systems, in which we assumed near-real-time owner-operator position data of very high quality was provided by both operators and used in the collision analysis. In this case, NONE of the conjunctions resulted in a warning and no COLA alerts were generated. The closest approach was 99 m, with a Pc of 3.7 × 10−7 using SP. But because of the quality of the GPS-based position data, this conjunction did not raise an alert because the fully-informed operators could be confident that a collision would not occur. Fig 4 Download : Download full-size image Fig. 4. Number of COLA alerts in 30 days for various qualities of position knowledge when a fictional new system is deployed near an existing one. In the example, an operations center for the Old constellation of six satellites could go from about one COLA assessment a week to nearly one per day per satellite, if only the published satellite catalog is available. If a new constellation operates too close to an existing system, the operator workload may become unreasonable using existing processes. But high accuracy data makes this manageable, and GPS-quality owner-operator data for both systems makes the problem vanish. Since these constellations are likely to be operated by different companies or governments, sharing high-quality position data would likely require an active space traffic management organization. Existing operators will not necessarily have large constellations parked nearby, but they will nonetheless be affected by the new activity. The new large constellations’ satellites typically will have relatively short lifetimes and will need frequent replenishment. The traffic transiting up and down will be substantial, and failures could leave stranded objects at intermediate altitudes, permanently increasing the collision risk. 5. Conjunction warning overload NewSpace operators will face a different challenge due to the vast increase in numbers of satellites. While there are likely as many operational plans as there are operators, a large constellation must consider close approaches with itself. Even if there are no neighboring systems, self-conjunctions can occur between two members of the same constellation. Depending on the configuration, a given operator could see hundreds to thousands of self-conjunctions that cross typical warning thresholds each day using current practices. This could be an issue for a space traffic management (STM) agency, even if it is not an issue for the operator. Aerospace models show that for one possible NewSpace constellation, more than 500,000 self-conjunctions each year could result that cross the typical Pc > 10−6 warning threshold. If no action were taken, we would expect 2–3 collisions per year. This is clearly unacceptable. Thus, current tracking accuracy and processes might produce millions of warnings per year for NewSpace operators to prevent half a dozen actual collisions. Under current practices operators would need to sort through an enormous haystack to find the needles, and because a handful of actual collisions will occur, the warnings cannot be ignored.

#### Feedback loops of technology cause increasing development and debris.

Bernat 20 – Pawel, 2020, Military University of Aviation, [“ORBITAL SATELLITE CONSTELLATIONS AND THE GROWING THREAT OF KESSLER SYNDROME IN THE LOWER EARTH ORBIT,” SAFETY ENGINEERING OF ANTHROPOGENIC OBJECTS, Volume 4, PDF] Justin

The second decade of the 21st century has brought a dynamic and somewhat surprising development of the space industry. Since 1972 – the Apollo 17 crew mission to the Moon, the humankind has not left the safe environment of Earth’s orbit, and for years the global space sector has been progressing in slow but steady pace run by a few largest space agencies like American NASA, European ESA, Japanese JAXA, and Chinese CNSA. The most significant achievement of the “old ways” of managing outer space exploration is the International Space Stations (ISS) that has facilitated more than 20 years of continuous crewed operations. The situation started to change at the turn of the century when new generations of private entrepreneurs began to invest in and develop space technologies like rocket boosters, spaceships, and what most important for the subject of the paper – satellites and their constellations. This new shift is known among the space industry as “Space 2.0”, and its emergence is dated around 2000-2002 when the companies like SpaceX, Blue Origin, and Virgin Galactic were established. (Pyle, 2019). The real change, however, came in 2012 when the first SpaceX commercial mission was successfully launched to the ISS (NASA, 2012). Since then, the participation of the private sector in the space industry has skyrocketed, especially in the United States. Today, SpaceX is the only entity that provides reusable rockets (first stage and fairings) that is capable of vertical launch and landing. Their current flagship rocket – Falcon 9 has carried out 23 successful missions in 2020 (SpaceX, 2020) and another four are planned for December of that year (Weitering, 2020). Moreover, thanks to Crew Dragon spaceship developed by the company, Americans have regained this year the capacity of sending astronauts from their own soil after nine years of buying the seats on Russian Soyuz capsule. SpaceX is now in the process of building a communication satellites constellation that will be addressed and analyzed in the paper. Nowadays, in the space industry, we witness a very productive cybernetic feedback look between the development of space technologies, the democratization of those technologies, and a substantial reduction of prices. The latter is even more significant if we compare the cost of launching cargo into orbit now and 20 years ago – Falcon 9 is over ten times cheaper than Space Shuttle (Jones, 2018). This, of course, directly translates into the mass and number of objects that we are able to put in the orbit viably. Once the constellations consisting of thousands of satellites were unthinkable, but in the current environment, they become a reality. Space 2.0 also has brought new threats and challenges in the sphere of national and international security. The increase in launch capacity, among other factors, has led to progressive militarization and weaponization of space and new arms race (Bernat, 2019), which has also contributed to the growing numbers of orbiting objects. The goal of the paper is to present the argumentation that the threat posed by the cascading collisions in the Earth’s orbit (Kessler syndrome) is becoming more severe due to the construction of orbital satellite constellations; the threat that presents a real danger for people during their EVAs and orbital infrastructure, which may bare immediate consequences for safety and security systems on Earth. In order to provide the theoretical context for the above claim, the following issues will be presented and discussed: (1) space debris, (2) the Kessler syndrome, (3) orbital debris models, (4) the legal issues related to space debris and mitigation actions against their proliferation, and (5) the planned and being currently developed orbital satellite constellations and how they contribute to the growing threat of the Kessler syndrome.

#### Privatization exponentially increases the curve but ending dangerous missions stops it.

Bernat 20 – Pawel, 2020, Military University of Aviation, [“ORBITAL SATELLITE CONSTELLATIONS AND THE GROWING THREAT OF KESSLER SYNDROME IN THE LOWER EARTH ORBIT,” SAFETY ENGINEERING OF ANTHROPOGENIC OBJECTS, Volume 4, PDF] Justin

5. Orbital satellite constellations and the growing threat of the Kessler syndrome Space 2.0 – the new era of space exploration that we witness now in the 21st century means, in words of Buzz Aldrin, “moving human enterprise into space” (Pyle, 2019, p. xiv). The process of commercialization of outer space has already begun and is not limited to private companies providing technologies and services for national or international space agencies, as it was in the past. On the contrary, private companies from the space sector have now matured to carry out their own independent projects. As for 2020, SpaceX is a company that serves as the best example – it launches satellites to the orbit, both for state and private contractors, it successfully realized two crew missions to the International Space Station, and is in the process of constructing Starlink satellite constellation that will provide high-speed internet access across the planet. Each satellite weighs around 260 kg, is equipped with an ion propulsion system, autonomous collision avoidance system, and orbits Earth at approximately 540-560 km altitude (Starlink, 2020). At the beginning of November 2020, more than 860 Starlink satellites were orbiting the Earth (Jewett, 2020). Immediate plans include launching 12,000 satellites, but they assume a potential later extension to 42,000 (Henry, 2019a). Of course, SpaceX has employed, at least declaratively, all necessary measures to keep the space clean – the satellites are equipped with the deorbiting system, and in the event of inoperability of the propulsion system (Starlink, 2020). The orbital collisions are, however, inevitable. As it was shown before, the possibility of collisions grows with the number of orbital objects. Bastida Virgili with the team compared (2016, p. 154-155) orbital debris environment development without and with a large hypothetical constellation consisting of merely 1080 satellites, distributed across 20 orbital planes at 1,100 km altitude (Fig. 5).

Chart, line chart

Description automatically generated

It has to be noted that although SpaceX’s Starlink is the only constellation that is being built in orbit, it is not the only one planned. There are at least a few initiatives aiming at the same goal – to construct internet infrastructure at the Earth’s orbit. The planned Kuiper Systems LLC, which is a subsidiary of Amazon and intends to place 3,236 broadband satellites in the LEO, is one of Starlink’s biggest competitors (Henry, 2019b). Now, there is even a rivalry between the two companies because Kuiper’s lowest orbital shell is planned to be 590 km, with a tolerance of 9 km either above or below (Cao, 2020), which is the altitude of Starlink satellites. Moreover, the race for space in orbit is now at the beginning. The outer space is vast. It increasingly becomes more cluttered with both operational satellites and space debris. The threat of collisions increases and no institution or body has enough power to license, coordinate and regulate what is sent to the orbit. The UNOOSA has not such power. National states decide what the companies from the space industry can launch to space. In the United States, which is most advanced in the area of private constellations, it is the Federal Aviation Administration (FAA) that issues the appropriate approvals. The race to put broadband internet satellites bears similarities to the gold rush – there are no rules, at the global level, apart from first-come, first-served.

#### Models are rigorous and robust.

---To clarify this is the methodology for above chart.

Virgili et al. 16 – Bastida, J.C. Dolado, H.G. Lewis, J. Radtke, H. Krag, B. Revelin, C. Cazaux b , C. Colombo, R. Crowther, M. Metz, 4/26/16, [“Risk to space sustainability from large constellations of satellites,” Act Astranautica, <https://sci-hub.se/10.1016/j.actaastro.2016.03.034>.] Justin

1.3. Simulation approach and result analysis A Monte Carlo (MC) approach was used to simulate the evolution of the object population over a period of 200 years under different post-mission disposal requirements, with four different tools (MEDEE – Modelling the Evolution of Debris on Earth's Environment [9], LUCA – Long Term Utility for Collision Analysis [10], DAMAGE – Debris Analysis and Monitoring Architecture to the Geosynchronous Environment [11] and DELTA – Debris Environment Long Term Analysis [12]). For analysis purposes, the effective number of objects was used where the contribution to the population by each object was weighted by the proportion of the orbital period spent in LEO. In a first step, four different evolutionary models performed an analysis of two reference scenarios. One scenario considered only the evolution of the background population and non-constellation traffic. The second scenario augmented the first with the addition of the representative constellation, with the requirement that 90% of the constellation satellites achieved post-mission disposal to orbits with remaining lifetimes of 25 years. The manoeuvres performed at the mission end to meet the disposal requirement are assumed to be impulsive (i.e. instantaneous) and result in an eccentric orbit with the apogee near the original (constellation) altitude and the perigee at an altitude such that the effects of atmospheric drag would cause the orbit to decay within 25 years. Two of the models considered an apogee remaining at the operational constellation altitude, while the other two reduced the apogee by 50 km. The purpose of these scenarios is to provide a cross-comparison of the models in terms of their predictions of the total object population, which take into account the effects of the constellation. As the distribution of the MC results for the models is of the same nature and the results are independent, a bootstrapping [20] approach is used to derive the mean, the standard deviation and the confidence levels at 95% of the combined results of all the MC runs from the four models (cf. Fig. 1), although not all the models performed the same number of MC runs (see Table 1). The main source of variation inside a particular model's MC runs included the randomness in collision activity, while the different models used their own solar activity forecast.

#### Debris triggers miscalculated war.

Peter Dockrill 16. Award-winning science & technology journalist. “Space Junk Accidents Could Trigger Armed Conflict, Study Finds.” <https://www.sciencealert.com/space-junk-accidents-could-trigger-armed-conflict-expert-warns>.

The increasingly crowded space in Earth's low orbit could set the stage for an international armed conflict, says a new study. Researchers from the Russian Academy of Sciences warn that accidents stemming from the steady rise in space junk floating around the planet could incite political rows and even warfare, with nations potentially mistaking debris-caused incidents as the results of intentional aggressive acts by others. In a paper published in Acta Astronautica, the team suggests that space debris in the form of spent rocket parts and other fragments of hardware hurtling at high speed pose a "special political danger" that could dangerously escalate tensions between nations. According to the study, destructive impacts caused by random space junk cannot easily be told apart from military attacks. "The owner of the impacted and destroyed satellite can hardly quickly determine the real cause of the accident," the authors write. The risks of such an event occurring are compounded by the sheer volume of debris now orbiting Earth. Recent figures from NASA indicate that there are more than 500,000 pieces of space junk currently being tracked in orbit, travelling at speeds up to 28,160 km/h (17,500 mph). The majority of those objects are small – around the size of a marble – but some 20,000 of them are bigger than a softball. In addition to these 500,000 or so fragments – which are big enough for scientists to know about them – NASA estimates that there are millions of undetectable pieces of debris in orbit that are too small to be monitored. But even extremely small fragments such as these pose a threat – in fact, they're considered a greater risk than trackable debris, as their invisible status means spacecraft and satellites can't do anything to avoid them until it's too late. As NASA observed in 2013: "Even tiny paint flecks can damage a spacecraft when travelling at these velocities. In fact a number of space shuttle windows have been replaced because of damage caused by material that was analysed and shown to be paint flecks… With so much orbital debris, there have been surprisingly few disastrous collisions." While we may have been lucky in the past, we can't rely on that to continue. The study by the Russian team cites the repeated sudden failures of defence satellites in past decades that were never explained. The researchers attribute two possible causes: either unrecorded collisions with space junk, or aggressive actions from adversaries. "This is a politically dangerous dilemma," the authors write.

#### Goes nuclear.

Les Johnson 14. Baen science fiction author, popular science writer, and NASA technologist. “Living without satellites”. <https://www.baen.com/living_without_satellites>.

Satellite imagery is used by the military and our political leaders to maintain the peace. When your potential adversaries can’t hide what they’re doing, where their armies are moving and what they are doing with their civilian and military infrastructure, then the danger of surprise attack is diminished. In our nuclear age with instant death only minutes away by missile attack, the doctrine of Mutual Assured Destruction (MAD) only works if both sides know whether or not they are being attacked. The launch of missiles or a bomber fleet can easily be seen from space far in advance of either reaching their potential targets halfway around the globe. The danger of surprise attack is therefore small, making an accidental war far less likely. So what does all this mean? And what do we do about it? First of all, it means that the advocates of space development, exploration and commercialization have succeeded far beyond their initial expectations and dreams. The economies and security of countries in the developed world are now dependent on space satellites. We space advocates should celebrate our success and be terrified of it at the same time. Should we lose these fragile assets in space, our economy would experience a disruption like no other: ship, air and train travel would stop and only restart/operate in a much-reduced capacity for years (GPS loss). Many banking and retail transactions would cease (VSAT loss). Distribution of news and vital national information would be crippled (communications satellite loss). Lives would be put at risk and the productivity of our farming would dramatically decrease (weather satellite loss). The risk of war, including nuclear war, would increase (loss of spy satellites) and our military’s ability to react to crises would be significantly reduced (loss of military logistics and intelligence gathering satellites).

#### Convergence of factors guarantee space escalation.

Thomas González Roberts 17. A space security researcher at the Center for Strategic and International Studies, and host of [Moonstruck](https://www.moonstruckpodcast.com/), a podcast about humans in space. "Why We Should Be Worried about a War in Space ," 12-15-2017. Atlantic, <https://www.theatlantic.com/science/archive/2017/12/why-we-should-be-worried-about-a-war-in-space/548507/>

One hundred miles above the Earth’s surface, orbiting the planet at thousands of miles per hour, the six people aboard the International Space Station enjoy a perfect isolation from the chaos of earthly conflict. Outer space has never been a military battleground. But that may not last forever. The [debate in Congress](https://docs.google.com/document/d/1e6zH3AfZHs4hLpGaKwmxAVxR-LfWk0110THq9tIhgOU/edit?ts=5a2f95e8?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25) over whether to create a Space Corps comes at a time when governments around the world are engaged in a bigger international struggle over how militaries should operate in space. Fundamental changes are [already underway](https://www.csis.org/analysis/congress-creating-military-space-corps?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25). No longer confined to the [fiction shelf](https://best-sci-fi-books.com/23-best-military-science-fiction-books/?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25), space warfare is likely on the horizon. While agreements for how to operate in other international domains, like the open sea, airspace, and even cyberspace, have already been established, the major space powers—the United States, Russia, and China—have not agreed upon a rulebook outlining what constitutes bad behavior in space. It’s [presumed](http://intercrossblog.icrc.org/blog/twmzia1cp84kv2c29bi4iz6q4u03in?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25) that International Humanitarian Law would apply in outer space—protecting the civilian astronauts aboard the International Space Station—but it’s unclear whether damaging civilian satellites or the space environment itself is covered under the agreement. With only a limited history of dangerous behavior to study, and few, [outdated guidelines](http://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introouterspacetreaty.html?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25) in place, a war in space would be a war with potentially more consequences, but far fewer rules, than one on Earth. Although there has never been a military conflict in space, the history of human activity above our atmosphere is not entirely benign. In 1962, the United States [detonated a 1.4 megaton nuclear weapon](https://www.smithsonianmag.com/history/going-nuclear-over-the-pacific-24428997/?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25) 250 miles above the Earth’s surface. The blast destroyed approximately one third of satellites in orbit and poisoned the most used region of space with radiation that lasted for years. Although the United States, Russia, and others soon agreed to a treaty to prevent another nuclear test in space, China and North Korea never signed it. In 2007, China [tested an anti-satellite weapon](http://www.washingtonpost.com/wp-dyn/content/article/2007/01/18/AR2007011801029.html?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25), a conventionally-armed missile designed to target and destroy a satellite in orbit. In the process, it annihilated an old Chinese weather satellite and created high-velocity shrapnel that still threatens other satellites. Even though demonstrations like this have consequences for everyone, countries are free to carry them out as they see fit. No treaties address this kind of test, the creation of space debris, or the endangerment of other satellites. The U.S. has the most to lose in a space-based conflict With by far the most satellites in orbit, the U.S. has the most to gain by establishing norms, but also the most to lose. Almost half of all operational satellites are owned and operated by the United States government or American commercial companies. That’s twice as many as Russia and China, combined. Space may seem distant, but what happens there affects our everyday lives on the ground. When we use our phones to plan a trip, we depend on American GPS satellites to guide us. When the U.S. military deploys troops overseas, satellite communications connect forces on the ground to control centers. When North Korea launches an intercontinental ballistic missile, the U.S. and its allies depend on early-warning satellites to detect it. On one hand, if the global space powers agreed to put limits on space-based weapons and other related technologies, it could make space safer for everyone. But because the U.S. may have spent time and resources [developing](https://www.theatlantic.com/technology/archive/2017/05/why-so-secretive/525969/?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25) exactly the type of weapons that a code of conduct would ban**,** it could also curtail the most advanced space-based developments, erasing years of research and progress. There are more players in space—and less consensus In the [first space age](https://www.csis.org/analysis/escalation-and-deterrence-second-space-age?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25), from the launch of the first human-made satellite in 1957 through the fall of the Soviet Union, the United States and the USSR were responsible for over 90 percent of all satellites. Their race to perfect space technology, dominated by both national security interests and scientific discovery, far outpaced everyone else. The second space age, from 1990 to today, looks remarkably different. Now, more satellites are operated by private companies than militaries, and more space launches and new satellites come from countries other than the United States and Russia. More players in space—particularly more unpredictable players—means more opportunities for aggressive behavior, like developing anti-satellite technologies or hacking satellite communications. Countries like Iran or North Korea that are newer to space can choose to operate in a way we’ve never seen before. And if their nuclear programs on Earth are [any guide](https://www.theatlantic.com/international/archive/2017/10/iran-northk-korea-nuclear/542673/?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25), they could pose serious threats if left unchecked. Efforts have been made to create a modern-day space rulebook, but so far none have gained traction. In 2008, when Russia and China both proposed norms of behavior, the United States [refused to sign on](https://www.theatlantic.com/science/archive/2017/04/space-war/521910/?utm_source=masthead-newsletter&utm_medium=email&utm_campaign=member-newsletter-20171213-20&silverid=%25%25RECIPIENT_ID%25%25). Similarly, when the United States supported a 2014 European Union proposal to govern the use of conventional weapons in orbit, Russia and China didn’t agree with the terms. Since the congressional debate about a Space Corps, people have been taking the prospect of a war in space seriously, in a way we haven’t seen before. Now we should start talking about how to avoid that war. To prevent conflict in the upper atmosphere, all potential adversaries—the United States, China, North Korea, Iran, Russia, the EU—need to align, and agree on norms of behavior. They need rules.

#### Any nuclear war causes extinction – ice age and famine.

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A war fought with 21st century strategic nuclear weapons would be more than just a great catastrophe in human history. If we allow it to happen, such a war would be a mass extinction event that [ends human history](https://ratical.org/radiation/NuclearExtinction/StarrNuclearWinterOct09.pdf). There is a profound difference between extinction and “an unprecedented disaster,” or even “the end of civilization,” because even after such an immense catastrophe, human life would go on. But extinction, by definition, is an event of utter finality, and a nuclear war that could cause human extinction should really be considered as the ultimate criminal act. It certainly would be the crime to end all crimes. The world’s leading climatologists now tell us that nuclear war threatens our continued existence as a species. Their studies predict that a large nuclear war, especially one fought with strategic nuclear weapons, would create [a post-war environment in which for many years it would be too cold and dark to even grow food](http://climate.envsci.rutgers.edu/pdf/RobockToonSAD.pdf). Their findings make it clear that not only humans, but most large animals and many other forms of complex life would likely vanish forever in a nuclear darkness of our own making. The environmental consequences of nuclear war would attack the ecological support systems of life at every level. Radioactive fallout, produced not only by nuclear bombs, but also by the destruction of nuclear power plants and their spent fuel pools, would poison the biosphere. Millions of tons of smoke would act to [destroy Earth’s protective ozone layer](https://www2.ucar.edu/atmosnews/just-published/3995/nuclear-war-and-ultraviolet-radiation) and block most sunlight from reaching Earth’s surface, creating Ice Age weather conditions that would last for decades. Yet the political and military leaders who control nuclear weapons strictly avoid any direct public discussion of the consequences of nuclear war. They do so by arguing that nuclear weapons are not intended to be used, but only to deter. Remarkably, the leaders of the Nuclear Weapon States have chosen to ignore the authoritative, long-standing scientific research done by the climatologists, research that predicts virtually any nuclear war, fought with even a fraction of the operational and deployed nuclear arsenals, will leave the Earth essentially uninhabitable.

#### Revising the Outer Space Treaty curbs the impact of space debris – timeframe is crucial.

Shah 20 – Sachin, 8/30/20, [“Aug 30 The International Legal Regulation of Space Debris,” CORNELL UNDERGRADUATE LAW & SOCIETY REVIEW, Administrative, Policy, Technology, <https://www.culsr.org/articles/the-international-legal-regulation-of-space-debris>] Justin

The body of legal regulations regarding the use of space (space being defined as the area above the jurisdiction of air law) by public and private entities is referred to as space law. Currently, there are only about five such regulations of space, the most significant of those being the United Nations’ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (hereinafter referred to as the Outer Space Treaty) of 1967. In this article, I would like to specifically describe and analyze the laws and regulations’ handling of the increasingly prevalent issue of space debris in orbit around Earth. The National Aeronautics and Space Administration (NASA) defines space debris as “any man-made object in orbit about the Earth which no longer serves a useful function.” [1] However, a major point of confusion discussed below is that the Outer Space Treaty does not explicitly define what it refers to as “space objects,” nor does it mention whether space debris are space objects. An excessive clustering of space debris is a problem for a few reasons. It may result in a phenomenon known as the Kessler Syndrome, in which there is a “cascade created when debris hits a space object, creating new debris and setting off a chain reaction of collisions that eventually closes off entire orbits.” [2] This endangerment of Earth’s future ability to explore extraterrestrial planets and life must be avoided at all costs. Furthermore, space debris in orbit around Earth limits the amount of available space for satellites to orbit, which may result in the Tragedy of the Commons: multiple actors will aggressively vie, in an arms race, for their right to space as it is a limited resource. [3] Space debris is thus a potentially pressing issue in our increasingly technological world. In this essay, I will analyze the existing regulation of space debris as outlined in the Outer Space Treaty, point out the issues with these regulations of space debris and discuss potential solutions, and, finally, discuss legal considerations for private enterprises as well.

The Outer Space Treaty of 1967 remains today’s leading regulation on the governance of outer space activities. A salient aspect of the Cold War was the space race between the United States and the Union of Soviet Socialist Republics (USSR) that occurred in the late 1960s. Before the nations engaged in their race to the moon, the United Nations enacted the Outer Space Treaty to ensure international peace by making the use of space equitable and fair. Articles VII and IX most closely deal with concepts of space debris, but it is important to note here that the Treaty does not specifically define space debris, and rather, governs the use of “space objects.” Article IX of the Treaty states that States “shall conduct all their activities in outer space, including the Moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty,” and that exploration of outer space should avoid its “harmful contamination.” [4] Many scholars believe that conducting activities with regard to other States involves leaving areas free of space debris, and further that space debris constitutes a harmful contamination to the space environment. Article VII of the Treaty provides that each State is “internationally liable for damage to another State Party to the Treaty or its natural or juridical persons by such object or its component parts on the Earth.” [5] Thus, regulations are in place to incentivize States to mitigate the amount of space debris they create for fear of severe financial penalties. There are also four other international treaties on space governance: the Rescue Agreement, the Liability Convention, the Registration Convention, and the Moon Agreement. These treaties, while also important, all have fewer signatory parties and were often created for more specific activities, whereas the Outer Space Treaty was general in scope and widely adopted. [6]

While many scholars agree that the Outer Space Treaty provides rudimentary regulation of the problem of space debris, therein lies the problem: it is only rudimentary. One of the most often cited problems with the Outer Space Treaty is that it was signed in 1967 (53 years ago) and that the technological climate of the space travel industry was not as advanced as it is today, reflected in a marked lack of specificity in the writing of these laws. [7] This lack of specificity highlights another issue: the imprecise language of the Treaty leaves unclear the definition of space debris, which leaves the regulation open to interpretation. Rather than agree with most scholars that space debris constitute “space objects,” scholar Chelsea Muñoz-Patchen uses the UN Space Debris Mitigation Guidelines’ definition of space debris along with the fact that space debris is non-functional and its ownership often untraceable in order to argue that space debris should be classified as “abandoned property” instead. [8] Furthermore, non-governmental private enterprises may be inclined to legally define space debris as something other than “space objects” in order to avoid the Outer Space Treaty’s aforementioned financial penalties, as will be explained below. The Outer Space Treaty also does not account for the fact that the space debris problem, especially as of late, has been becoming worse over time. As collisions between debris and satellites continue to occur, more debris is strewn across Earth’s orbit, endangering future spacecraft from safely orbiting Earth, supporting the theory of the Kessler Syndrome. [9] Thus, the Outer Space Treaty is not a very effective legal instrument with regards to mitigating the amount of space debris in orbit around Earth.

Due to the Treaty’s weakness, many of the aforementioned scholars support revising the Outer Space Treaty by clearly defining space debris, increasing its technology-specific language to combat space debris issues, and outlining specific punishments to negate the complete lack of enforcement built into the current Treaty. While nations do recognize the danger that space debris pose to orbital operations, stronger laws must be enacted in order to de-escalate an imminent arms race and incentivize them to mitigate their debris. [10] Believing that one convention or treaty would be insufficient, N. Jasentuliyana recommends the creation of a regulatory regime to solve the growing problem of space debris. Such a regime would “effectively deal with these technical problems and establish international legal rules, standards and procedures on a continuing basis.” [11] Thus, one potential solution to the legal lack of space debris mitigation is establishing a lawmaking agency which specifically focuses on the issue of space debris. In addition to the creation of a legal agency which could hold actors accountable for the amount of space debris produced, international laws guiding the actions of private companies’ activities may also provide an answer, as will be discussed in greater detail below.

Although there do exist international laws and regulations governing the use of space for states and governmental entities (albeit weak ones), the private enterprises sending objects into space are subject to even less stringent regulations than states are. SpaceX, for example, to authorize their sending of 42,000 Starlink satellites into orbit, only had to submit paperwork to the U.S. Federal Communications Commission (FCC) and the International Telecommunication Union (ITU). [12] Paul Larsen posits that, in the face of less stringent regulations, nongovernmental satellite companies send many satellites into orbit in order to maximize their profit, which is their primary objective. Unlike the vagueness and lack of enforcement that came with written law (which is apparent in the Outer Space Treaty), the unwritten market-oriented incentives for profit by large-scale satellite providers and operators provide a reason for actors to mitigate space debris in orbit around Earth. Larsen states that “They have huge sums of money invested in each satellite, perhaps as much as a half-billion dollars, when all costs are included. Loss of one satellite is a major event. They want their assets to be safe.” [13] Thus, these satellite companies have a major stake in space traffic management and their market incentives do a better job of mitigating space debris than the existing legal regulation does. The company SpaceX, as mentioned above, plans to send 42,000 satellites into space. While doing so would likely result in significant profits for the company, many believe this will diminish astronomical visibility as well as increase the chance of collisions with space debris. [14] Due to these effects, scientists and space law experts alike have called for a legal delay to the ITU’s decision on whether or not to accept SpaceX’s proposal to launch more satellites. If these parties are successful, a precedent-setting legal case regarding space debris mitigation and satellite use in space may well provide a solution to the outdated Outer Space Treaty of 1967.

#### Private entities are non-governmental.

Dunk 11 – Frans G. von der Dunk, 2011, [“The Origins of Authorisation: Article VI of the Outer Space Treaty and International Space Law,” University of Nebraska] Justin

4. Interpreting Article VI of the Outer Space Treaty One main novel feature of Article VI stood out with reference to the role of private enterprise in this context. Contrary to the version of the concept applicable under general international law, where “direct state responsibility” only pertained to acts somehow directly attributable to a state and states could only be addressed for acts by private actors under “indirect,” “due care”/“due diligence” responsibility,18 Article VI made no difference as to whether the activities at issue were the state’s own (“whether such activities are carried on by governmental agencies” . . .) or those of private actors (. . . “or by non-governmental entities”). The interests of the Soviet Union in ensuring that, whomever would actually conduct a certain space activity, some state or other could be held responsible for its compliance with applicable rules of space law to that extent had prevailed. However, the general acceptance of Article VI as cornerstone of the Outer Space Treaty unfortunately was far from the end of the story. Partly, this was the consequence of key principles being left undefined.

#### Removal efforts are complements to the plan not the silver bullet.

Rada Popova 18, European Space Agency Project Co-Manager and PhD Faculty of Law @ Universitat zu Koln, “The Legal Framework for Space Debris Remediation as a Tool for Sustainability in Outer Space,” *Aerospace*, MDPI, doi:10.3390/aerospace5020055 \*adr = active debris removal, \*\*sdr = space debris remediation, \*\*OOS = on orbit servicing

In outer space, any launch creates space debris. Since the first man-made object was launched into space in 1957, more than 5600 launches have taken place [2]. In addition, incidents and collisions create additional space debris. As a result, human activities have caused significant negative effects on outer space, as during the past six decades near-Earth orbits have been filled with functional and non-functional objects, the overwhelming majority of which are debris. Of course, this observation is not relevant for the whole of outer space. For the purposes of this article, and of space law in general, the subject of interest is naturally restricted to the orbital regions that are accessible for man-made spacecraft and are used for space activities. The farthest space mission so far—Voyager-I—has left the solar system and entered interstellar space. Nevertheless, most human activities take place in low-Earth orbit (LEO) in an altitude between 200 and 2000 km used for the International Space Station, Earth observation satellites as well as some telescopes, medium-Earth orbit (MEO) in an altitude approximately between 2000 and 36,000 km mostly used for navigation, geodetic and communication satellites as well as geostationary Earth orbit (GEO) at approximately 36,000 km. Currently, there are 1738 functional satellites, of which 1071 are in LEO, 531 in GEO, 97 in MEO and 39 in elliptical orbits [3]. Currently, only 6% of the catalogued orbital population are functional objects. The number of non-functional objects that are trackable and contained in the Space Surveillance Network catalogue show that there are more than 21,000 larger than 10 cm. For smaller sizes, the estimates are based on statistical models, such as the NASA Standard Breakup Model [4] and in-situ measurements. The estimates include 150 million objects larger than 1 mm and 600,000 objects up to 1 cm. Moreover, 700,000 to 750,000 pieces of space debris larger than 1 cm have resulted from more than 200 on-orbit defragmentations [5]. As a consequence of the vast orbital velocity in LEO (8 km/s = 28,800 km/h), impacts with the smallest objects of 1 mm might cause degradation and damage to functional spacecraft. So far, shielding options have been developed, but they are only effective for fragments not larger than 1 cm. Impacts with larger objects have the potential to destroy functional satellites. This is linked to the decisive factor for the constant growth in debris: the ‘Kessler syndrome’—a cascade effect describing the fact that collisions between space debris result in an exponential growth in the orbital debris population which, once collisional break-up begins, will increase even if no new launches take place [6,7]. In the near future, a further “growth factor” which might additionally influence space debris propagation are so-called ‘mega-constellations’ that will consist of hundreds of small satellites with a short operational lifetime and restricted manoeuvring capability [8,9,10]. Table 1 lists recently announced satellite constellations aiming to provide global internet communications which have attracted much publicity. Some commonalities include: (1) the orbital altitudes above the popular 800–900 km Sun-synchronous orbits where atmospheric drag is non-existent; and (2) the compact mass of objects below 500 kg which suggests low-thrust electrical propulsions for orbital manoeuvers. The list of announced constellations could easily be extended. However, it is unlikely that all announced plans turn into reality. In such global business scenarios, typically the first-in-the-market along with two or three competitors apportion the market among themselves. This happened in the 1990s, when several global communication LEO constellation systems were announced of which only Iridium, Globalstar and Orbcomm made it into orbit. Keeping in mind that approximately 1000 active satellites are in LEO today, with the announced OneWeb mega-constellation this number will almost double [11], and if all three constellations on the list are launched, this would result in a tenfold increase in the LEO satellite population. The scope of challenges posed by orbital debris pollution is further underlined by the restricted cataloguing possibilities and the relative effectiveness of space situational awareness systems. The catalogue maintained by the US Space Surveillance Network provides information on 16,000 objects [13]. The Space Awareness System of the European Space Agency (ESA) can track objects bigger than 10 cm in low-Earth orbits and 0.3–1 m in geostationary orbits [14]. Thus, only a small fraction of the overall debris population can be detected. Furthermore, even if a collision probability can be calculated, manoeuvring may not be feasible, e.g., due to restricted time for reaction or lack of manoeuvring capabilities or control over the satellite. Unlike the environment of the Earth that might be cleaned-up and restored to a previous state, outer space is governed by celestial mechanics which make it practically impossible to clean-up debris through natural orbital decay and thereby bring the orbital environment to its original state. The natural decay of space debris is dominated by the drag caused by the residual atmosphere. The effect is dependent on the mass, the cross-sectional area, and the orbital position of the space object. Space debris at 800 km may remain in orbit for the next few centuries [15] and space debris orbiting at more than 1500 km will practically remain in outer space forever as there is not enough drag from Earth’s atmosphere any more at this altitude [16]. All of these factors make for an alarming picture. In general, one can distinguish between collisions (in which two objects are involved) and break-up events (which can occur if a satellite is breaking up by itself because of residual fuel in the tanks or a self-destruct mechanism). Although so far only a few on-orbit collisions have occurred [17] (e.g., the 2007 anti-satellite missile test conducted by China on its Feng-Yun 1C satellite and the 2009 collision between the inactive Russian satellite Cosmos 2251 and the active US satellite Iridium 33), a dramatic growth in the space debris population has been caused by these accidents. Alone the 2009 collision led to the creation of a space debris cloud of 2000 pieces of debris larger than 10 cm and thousands of smaller pieces which might remain in orbit for years [18]. The number of collisions that will lead to further incidents will grow over time. This risk is particularly high for near-polar LEO orbits at around 800–900 km and the GEO region, as approximately 62% of functional satellites are in LEO and 31% in GEO [3,19]. As LEO is the region of greatest concern for the uncontrolled growth of debris, currently, the following mechanisms are considered vital to mitigate the debris population to a sustainable level: (1) post-mission disposal; (2) passivation; and, (3) active debris removal. While a few years ago, less than 50% of the missions in GEO were compliant with space debris mitigation standards [20], in 2016, more than 80% successful clearance attempts were undertaken in GEO and 66% in LEO [21]. It has been estimated that compliance with mitigation rules, e.g., through ensuring that 90% of the launches are in compliance with the 25-year rule of post-mission disposal as provided by the Space Debris Mitigation Guidelines of the Inter-Agency Space Debris Coordination Committee (IADC) [22] and no new on-orbit explosions occur, will not be enough to reverse the negative trend in the most used orbits. These findings were studied in detail by the IADC in simulation campaigns among the participating partners, and recently confirmed by reference simulation in the frame of the H2020-ReDSHIFT project [23]. Furthermore, even if up to 10 large objects are removed from low-Earth orbit per year, the debris growth in LEO is still likely to evolve negatively in the next 200 years [1]. Long-term reference scenarios conducted recently within the H2020-ReDSHIFT project used a space debris population from LEO to GEO and a projection time frame of 200 years. Assuming 2–3 self-induced in-orbit explosions over the next 15 years, a post-mission disposal success rate of 60% (on 25-year orbits in LEO and to graveyard orbits in GEO) and collision avoidance against all objects in LEO, the results show that remediation of two objects per year decreases 12% of the final population [24]. Thus, it is expected that a combination of mitigation and remediation measures is needed to overcome the negative trends which will, with time, evolve into a catastrophic state if no effective action is undertaken. While an established (voluntary) framework for non-binding mitigation measures and some state practice exists through the adoption of specific measures for space debris mitigation in the national space laws of some states [25], the legal implementation of space debris remediation (SDR) is still in the making. The reasons for the slow pace of this development are, on the one hand, of a technological nature and, on the other, are due to the complex legal problems posed by SDR. In the following sub-section, an overview of the legal framework and the main challenges for establishing rules on SDR will be given. 2.2. The Legal Framework for Space Activities The legal framework for outer space activities consists of five international treaties (the 1967 Outer Space Treaty (OST) [26], the 1968 Rescue Agreement [27], the 1972 Liability Convention [28], the 1975 Registration Convention [29], and the 1979 Moon Agreement [30]) adopted in the period between 1967 and 1979, resolutions of the General Assembly of the United Nations adopted since 1982, and the national space legislation of more than 20 countries. Since 1996, a tendency can be observed to adopt sets of measures and instruments on the international level that re-interpret concepts entailed in earlier Treaties [31]. The Outer Space Treaty is sometimes referred to as a “Constitution” of space law as it contains the basic principles for space activities, provides the basis for the next four treaties, and has gained significant support, with 107 signatories as of January 2018 [32]. Thereby the Outer Space Treaty is considered to contain principles of customary international law, which bind not only state parties to the treaty but also non-signatories [33]. Such customary principles are Articles I–IV, VI, VII, VIII and arguably also Art. IX OST and have served as a basis for the development of the further treaties on space law. International law designates outer space and celestial bodies the status of a global common—a domain beyond national jurisdiction which is not subject to national sovereignty. This is laid down in Art. I para. 1 of the 1967 Outer Space Treaty [26], according to which the use and exploration and use of outer space should be regarded as the ‘province of all mankind’. While it is difficult to define this notion in concrete terms, there is no doubt that outer space should be open to the use of all states, regardless of their current economic or technological development [34]. Thus, the use of outer space as a global common, including economic and non-economic uses as well as scientific exploration of outer space and celestial bodies, should be free—in the sense of remaining accessible for all states and their nationals on the same terms, without discrimination of any kind. Accessibility as a means to carry out space activities should be preserved not only in the short-term perspective, but on a long-term basis as the dependency of humans on outer space will only grow in the future. As a consequence, the sustainability of space activities must be ensured. It is, therefore, worthwhile discussing whether, if such activities are endangered by the negative consequences of orbital pollution, the rights of states to freely exercise their activities in outer space as stipulated in the Outer Space Treaty can be safeguarded. ● The Freedoms vs. the Usability of Outer Space The principles contained in the Outer Space Treaty and the subsequent four treaties on space law set out a framework for human activities in space that can be characterized as a system of freedoms and limitations. Art. I of the OST provides that there shall be freedom of the exploration, use and scientific investigation of outer space and celestial bodies. “Use” means both the economic and non-economic use of outer space [35]. The term “exploration”, however, stipulates not so much consuming or profiting from space but rather the discovery of something new or yet unknown. Scientific investigation might but must not necessarily overlap with “exploration” as scientific activities might be aimed also at already discovered objects or areas. The term “freedom” means that all addressees of these provisions (primarily states and also nationals of states, in as much as states entitle them to do so through national space legislation) are entitled to use, explore or scientifically investigate outer space without the need to ask for permission from other states or an international entity. At the same time, this means that such activities shall not be hampered, e.g., by harmful interference or other impairment. However, the freedoms of outer space are not absolute, as they are not limitless. Limitations are certain exceptions contained in Article I of the OST itself as well as in other treaty provisions of the corpus iuris spatialis. Such as, inter alia, the common benefit clause (Art. I para 1 OST), Art. III OST and Article 2 UN Charter, Art. IV para 1 OST, Art. VII OST and Art. 2 and 3 Liability Convention. Some of these limitations are specifically relevant for the sustainable use and exploration of outer space and celestial bodies, and thus for SDR, as sustainability is an indispensable condition for the usability of outer space. It is thereby required that the use of outer space by present generations takes place on the basis of responsibility towards future generations, which is reiterated by the specific nature of outer space as a global common. ● The notion of the “province of mankind” In Art I para 1 of the OST and Art. 4 of the Moon Agreement the use and exploration of space and celestial bodies are declared to be the “province of mankind”. Although no definition of the term “mankind” has been provided, this notion is an expression of the equal right of all states (regardless of the fact that they are space-faring or developing countries) and all generations (present and future) in the use and exploration of outer space and celestial bodies [36]. ● The Common Heritage of Mankind (CHM) concept (Art I para 1 OST, Art. 11 MOON) The purpose of this doctrine, which is not restricted only to space law, is the protection of certain areas of great importance outside national territory and ensuring their integrity for future generations. It is reflected the United Nations Convention on the Law of the Sea [37] and can also be found in the Preamble of the Antarctic Treaty [38] without being explicitly mentioned there. As with the province of mankind clause, the notion of CHM brings forward the particular status of outer space as a domain which should be open and preserved for all states and generations. ● Military uses of outer space Another important limitation to the freedoms of outer space is contained in Art. IV of the OST. Certain military uses of outer space, such as the placement of nuclear weapons and weapons of mass destruction in orbit around the Earth, their installment as well as the establishment of military bases and the testing of weapons on celestial bodies or their stationing anywhere in space, are prohibited. Furthermore, para 2, Art. IV provides that outer space may be used for “peaceful purposes only”. While the exact meaning of the term “peaceful purposes” is contested, the leading opinion interprets it as non-aggressive, meaning that some military activities are acceptable if exercised lawfully (e.g., the right to self-defence, Art. 51 UN Charter) [39]. This provision is relevant especially as e.g., anti-satellite testing and other military destructive activities can produce a considerable amount of debris. ● The environmental protection of outer space A further limitation is contained in Art. IX of the OST, which is considered the basis for the environmental protection of outer space. By providing that states parties “shall conduct all their activities in outer space, including the Moon and other celestial bodies, with due regard to the corresponding interests of all other states” [40], this provision reaffirms the common character of outer space. Furthermore, it provides that the “harmful contamination” of outer space and celestial bodies shall be avoided (Art. IX sent. 2 OST) and, in case activities can potentially cause “harmful interference with activities of other states parties”, consultations should be undertaken before the activity is carried out or continued (Art. IX sent. 3 and 4 OST). Although the concepts used in Art. IX are difficult to define, it expresses the idea that there shall be protection of space activities from all forms of interference that might cause harm or pose a risk of harm to other states [40]. Thereby, Art. IX of the OST contains the principle of co-operation (Art. IX sent. 1 OST) which is also found in Articles III and X of the OST and was further developed in the other four treaties on space law. However, no specific requirements for states as to how to exercise their activities in a manner that would ensure that the standard of care towards of activities of other states are provided. Thus, the legal framework provides for some general direction for co-operation between the users of outer space but concrete instruments on how to ensure sustainability need to be formulated in more detail. In fact, the treaties on space law neither expressly prohibit the creation of space debris nor impose an obligation on states and their space actors to remove space objects from orbit. Mitigation measures have so far only been adopted as voluntary, non-binding instruments and have been partly adopted in the national laws of some states [25]. In sum, it can be stated that a general obligation to protect the environment of outer space results from the common interest of the community of states to access and use outer space. If a narrow interpretation of the theory of erga omnes obligations is followed, it is the currently 107 State parties to the OST [32] which represent the community having a common interest in the protection of the usability of outer space. If the view is followed, that due to the broad support and the principle-based character of some of its norms, the Outer Space Treaty has at least partly customary character, it can be argued that the 107 State Parties represent the global community so that the global community has a legal interest in the environmental protection of outer space., but a concrete, binding way of action for SDR cannot be derived from existing space law [41]. 2.3. The Future of the Outer Space Environment 2.3.1. Sustainability as a Condition for the Usability of Outer Space What, then, can be done? In the context of the work of the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS), the sustainability of outer space is defined by the stability and safety of its environment which shall be “open for exploration, use and international cooperation by current and future generations (…)” [42], based on non-discrimination. Thus, sustainability is a condition for any future access to and use of outer space. On the technical level, both mitigation and remediation concepts **have been developed** in order to facilitate the protection of near-Earth space from space debris aiming to “maintain the conduct of space activities indefinitely in the future” [43]. Out of the factors playing a role in the creation and distribution of space debris (orbit dynamics, air-drag on the residual atmosphere, on-orbit explosions, collisions, surface degradation slag from solid rocket motor firings, launch rates of future missions, operational practices and mitigation practices) a few will be tackled here that are the direct result of man-made activities. In the style of the “leave no trace” paradigm of sustainable outdoor activities in nature here on Earth, several guidelines have been formulated as well for space activities; for instance, guidelines for the disposal of defunct satellites which are to be removed from LEO within 25 years after their end-of-life. In practice, this typically is realized by a final orbit maneuver which lowers the perigee as much as possible to ensure it will re-enter within 25 years. Such an action at the end of a mission is also beneficial with respect to another paradigm, which calls for a minimum impact on the environment. In a last orbit maneuver, all the leftover fuel can be used, which is one element of the passivation of satellites at their end-of-life. In general, passivation covers all forms of stored energy on board, let it be kinetics of the gyros, charge of batteries, and also fuel in the tanks. Passivation aims at the minimization of self-induced break-ups and it is expected that the number of explosions can be controlled very well by proper passivation and their severity can be significantly reduced (because e.g., the residual fuel cannot self-ignite when the tank corrodes and lead to a complete destruction). That said, post-mission disposal considerations are to be seen in opposition to the space mission operators’ desire to extend the nominal mission operation. Naturally, this is also a sustainable approach. It is usually better in terms of global sustainability to continue using old equipment (and accepting additional maintenance to a certain economic level) instead of throwing it away and replacing it. In space, however, maintenance is not easily done. Therefore, the risk of a critical failure on-board a satellite increases towards longer mission durations. From the sustainability point of view, it remains unclear when it is best to simply extend a mission and accept the higher risk of losing control over the satellite and not being able to perform disposal at all or to terminate the mission with a proper disposal maneuver and passivation. The aforementioned example highlights that, as in other domains, there is a usually a conflict of interest between the immediate needs of spacecraft operators and the higher good of preserving the space environment in accordance with the treaties on space law. Space mission designers will always assess the collision probability due to space debris and define a tolerated risk threshold for their assets. In case the desired target orbit is already too densely populated with debris, it is possible to re-design and move to other, higher orbits. What is yet to be done is to strike an agreement at a global level to define acceptable inflictions on the space environment that are tolerable. An analogy can be drawn to the consensus on the two-degree goal in climate change. Maybe it is possible to discuss and formulate similarly memorable and easily understandable goals for the outer space environment. Although it is unlikely that the final sentence will state “Two collisions per year are tolerable”, such goals would provide the necessary foundation for further action. 2.3.2. The Need to Act As any significant accident in outer space leads to irreparable damage in orbital stability, it is not enough to mitigate the production of new space debris. In particular, the fact that in higher altitudes objects may remain over hundreds or even thousands of years, means that a potentially catastrophic effect for functional objects remains. Mitigation can indeed contribute to stabilizing the outer space environment, but further measures are necessary. For example, in LEO mitigation measures can only slow down the pace of growth but are not enough to stop it. Therefore, further measures aiming at reducing the existing space debris population through remediation are needed if the most used orbits are to remain usable. For example, a long-term scenario with five ADR missions per year clearly shows that remediation for large objects would lower the number of collisions in densely populated orbital regions from 10 to 5 and is, thus, advantageous [23].

#### Exemptions destroy the coercive power of legal regimes – causes circumvention across the board.

Hickman and Dolman 2 – John and Everett, 2002, Associate professor in the Department of Government and International Studies at Berry College in Mt. Berry, [“Resurrecting the Space Age: A State–Centered Commentary on the Outer Space Regime,” Volume 21 Number 1, <https://doi.org/10.1080/014959302317350855>] Elmer Recut Justin

Thus a state party need merely announce its intention to withdraw and then wait one year. Withdrawal of a single state party to the treaty, however, would not necessarily terminate the treaty between the other state parties. Yet, the decision of an important state not to be bound by a regime–creating treaty obviously endangers the entire treaty. The decision of the United States or China to withdraw from the OST would have far greater implications for the survival of the international space regime than the same decision by Bangladesh, Burkina Faso, or Papua New Guinea—the equality of states under international law remains nothing more than a useful  ction. For the OST to remain good international law, it must be accepted as such by the major space faring states of the 21st Century: the United States, Russia, the European Union, Japan, and China. One defection from the regime by a member of this group would no doubt lead to its effective collapse, as the remaining space faring states are unlikely to use the kind of coercion necessary to enforce the regime. A more likely response to such a defection is a scramble to make similar claims to sovereignty, based on historical precedent and effective occupation. Similar rushes to stake claims for territory sovereignty in other celestial bodies might follow.