# NEG

## 1 - CP

### ISA Regulation

#### Text: States should create a binding international regulatory framework under the ISA for property rights in outer space – standards as per the Chouhan card.

#### It competes – we permit private appropriation of outer space.

Chouhan 21

Karan Singh Chouhan, Privatization of Outer-Space and Ownership: ISA As a Model of Regulation for Resource Exploitation. *CMR University Journal for Contemporary Legal Affairs, Vol 1, Issue 2, ISSN 2582-4805* 19 Pages Posted: 3 May 2021 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3832673> -CAT

* ISA = International Seabed Authority
* CLOS = Convention on the Law of the Sea
* Bracketed to avoid gendered language

The emergence of private corporations in space exploration and their interest in space resource exploitation presents a challenge in front the international space law regime. It can be argued that the role of private space players can be positive as it can lead to more investment, research, innovation and commercialization which will benefit the [hu]mankind as a whole but at the same time unregulated commercialization or privatization of space may also lead to mayhem and creating a ‘wild-west’ in space with its militarization and such a scenario has to be avoided.67 Outer space is categorized as res-communes and a ‘heritage of mankind’ under the International Space Law. The concept of ‘heritage of mankind’ is not a new concept applied to outer space. This concept is already in use its application to the high seas and seabed where no nation can claim sovereignty over them as they belong to all of the mankind.68 There is a stark similarity between Oceans on earth and outer space as both cannot be appropriated as a whole and no country can claim them for itself. Considering that, it’s logical to learn from the lessons of 69 UNCLOS and applying these principles to the outer space for a 70 peaceful regulation of the exploitation activities. However, ‘Open Sea’ 71 concept gives the freedom of navigation and to exploit the fishing stocks in the high seas and thus such a principle cannot be applied in outer space for the reason that fish stocks are biological resources and can be replenished and same cannot be said about the outer space resources hence the analogy with Open ocean may fail. The model of International Seabed Authority (ISA) which regulates the deep seabed 73 mining and is the closest one that can be used to regulate the activities in space without creating friction and conflict. We have proven principle and legal theories in ISA which are working well and accepted by a large majority of countries, and there is a need to adopt these legal principles for the regulation of space resource exploitation. A. International Seabed Authority Model International Seabed Authority is established to regulate the use of seabed for resource extraction and mining. Like open ocean, the 74 seabed is also considered as the common heritage of mankind. Part XI 75 of UNCLOS also proclaims that no State can claim sovereignty over the seabed and all the rights over seabed belongs to mankind, and whose behalf the ISA will act. It further forbids the alienation of resource from 76 seabed, other than the authorization of the ISA, nor can any state claim any rights over the extracted resource unless it’s done according to the provisions of UNCLOS. The ISA fulfils its function of providing a 77 benefit to mankind by equitable sharing of financial and other economic benefits, and also, is instrumental in protecting the interest of the 78 developing countries by facilitating ‘transfer of technology’ so that even the poor countries can participate in resource extraction and such steps can lead to the development of mankind as a whole. Essentially, this model of resource extraction allows for the private appropriation, with the authorization of ISA, but with the condition that it leads to the sharing of the benefits as the resources are heritage of [hu]mankind. A 79 similar model, if applied in outer space can work as it provides the appropriate balance between several interests to keep militarization or conflict away but at the same time ensures that private entities have a role in the development of space frontiers as they can still keep heft amount of profit to themselves, while the benefits are getting shared among all the countries in an equitable manner. The Moon agreement also proposes the regulation model based on an equitable sharing of benefits and ISA is the best candidate to fulfill that condition. The ISA inspired 80 organization can work under the aegis of United Nations Committee on the Peaceful Uses of Outer Space (COPOUS) or it can be an independent body. Such an organization can provide charter-based rights for resource extraction from outer space and put a legal obligation on the basis of sharing the benefit, best proposal to recover and environmental regulation to prevent wastefulness. V. Conclusion We are living in a capitalistic era but it would be wrong to assume that it’s the ultimate economic ideology for human society. However, reality cannot be set aside for a hypothetical future, and the important role that private corporations can play in outer space cannot be denied. Unilateral action of US or any other country for privatization of outer space will only lead to conflict, even if we ignore that such actions are violating international law. It needs to be accepted that current legal regime is inadequate for the purpose of space resource exploitation as it lacks clarity. However, instead of unilateral action, a global governance model based on the principle of equity and ‘benefit of the [hu]mankind’ has to be developed. Space belongs to all of the mankind, it’s not a property 81 of one nation and hence state practice of one nation cannot decide the future for all of us. The Global governance model should be developed through international consensus, as the future of all the countries is at stake. In the 57th session of UNCOPUS held in 2018, one of the agenda of debate was consideration of potential legal model for activities in the exploration, exploitation and utilization of space resources. One of the 82 best potential models for the governance of outer space is the ISA, which has been discussed above. It is the best balance between exploitation of resources, respecting the role of private entities, but at the same time protecting the interest of the all of the mankind including developing and underdeveloped nations. Obviously, ISA cannot be transplanted as it is to the outer space and it has to be sui generis in nature, but outer space model of governance can be greatly inspired by the principle followed under ISA. Such a model can be the only way to ensure the International peace, prosperity and demilitarization of space.

#### It's feasible – I-law reaches a clear and enforceable consensus

O’Brien 19

Beyond UNISPACE: It’s time for the Moon Treaty by Dennis C. O’Brien Monday, January 21, 2019 The Space Review. <https://www.thespacereview.com/article/3642/1> -CAT

* We’ll also insert the graph of 157 countries in the doc; all light AND dark blue countries have adopted CLOS – that’s Europe, most of Africa and Asia, Australia, Canada, Mexico, and most of South America.

Many critics have compared the Moon Treaty with the United Nations’ Convention on the Law of the Sea (CLOS), claiming that the latter is a failed treaty that has prevented the development of undersea resources and fearing that the former would do likewise. They are especially critical of the creation of an “enterprise,” a government-owned entity that would use the development of undersea resources to assist countries that were adversely affected by undersea development. If the international regime envisioned by the Moon Treaty takes a form similar to that of the Enterprise, developed nations would be required to relinquish a portion of the resources extracted from the Moon and other celestial bodies. [5] Such concerns were very reasonable in the 1980s. At that time, many were insistent that governments should own and operate large industries rather relying on capitalism and private enterprise. Even the United States was requiring almost all satellites to be launched on the government-owned shuttle. All of that has changed, beginning with the Challenger accident in 1986. By 1991 the Soviet Union had ceased to exist and there was no longer a Cold War battle between capitalist and communist philosophies. The United Nations increased its efforts to broaden support for the CLOS, resulting in the Implementation Agreement (IA) in the early 1990s. The CLOS and its IA came into effect in 1994, one year after Guyana became the 60th country to adopt it. It has now been adopted by 157 countries (see map below). Even the United States almost adopted it. The CLOS had received bipartisan support in the Senate Foreign Relations Committee, but in 2012 34 senators signed a letter saying they would not vote for it, denying it the two-thirds majority needed for ratification. [6] There are now 29 entities who have signed contracts with the newly-created International Seabed Authority for exploration and possible development of seabed resources. [7] A treaty that was once thought dead was given new life through the use of an implementation agreement to address unresolved concerns.

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| map Fig. 1. Map of countries (in light/dark blue) that have adopted the U.N. Convention on the Law of the Sea. [8] |

The strategy of using of an additional document to make the five space treaties more universal gained support in the COPUOS legal subcommittee at their June conference: 13. The view was expressed that the universality of the five United Nations treaties on outer space should be strongly supported and promoted, and that effective implementation of the treaties required broad adherence due to the increasing number of parties holding a stake in outer space activities. 14. Some delegations expressed the view that the guidance document envisioned under thematic priority 2 of UNISPACE+50 (Legal regime of outer space and global governance: current and future perspectives) and developed within the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, could offer valuable guidance to States wishing to become a party to the five United Nations treaties on outer space and could thus help to promote the universality of those treaties, greater adherence to them and the progressive development of international space law. (emphasis added) [9]

#### **The internal net benefit is that an enforceable consensus avoids the 1AC’s inevitable race to the bottom**

Tjandra 21

Tjandra, Jonathan. ‘The Fragmentation of Property Rights in the Law of Outer Space’. Air & Space Law 46, no. 3 (2021): 373–394. CAT

Concepts of property and appropriation derived from ancient legal doctrines are no longer sufficient to deal with the problems of scarcity and technology that arise from the context of outer space. But how to deal with this problem is a vexed question, for the international community is effectively in a Prisoner’s Dilemma. The current status quo is inadequate, primarily because of the uncertainty inherent in the provisions of the Outer Space Treaty, and because a right to use does not incentivize sustainable management of outer resources. However, a move to a more cooperative regime will be resisted by wealthier States, evidenced by the U.S’. reluctance to acknowledge the Moon Agreement. Similarly, a move to fully incorporate the full set of property rights would be resisted by poorer States, because it may mean they never will be able to benefit from outer space if the wealthier States utilize their right to exclude. The lack of consensus on an alternative means that there the international community is left with the least best option of a fragmented system of property rights.

#### External NB: I-Law controls the internal link to every existential threat.

Mecklin 21

John Mecklin, Bulletin of the Atomic Scientists, “This is your COVID wake-up call: It is 100 seconds to midnight.” 2021 Doomsday Clock Statement, January 27, 2021. *Founded in 1945 by Albert Einstein and University of Chicago scientists who helped develop the first atomic weapons in the Manhattan Project, the*Bulletin of the Atomic Scientists *created the Doomsday Clock two years later, using the imagery of apocalypse (midnight) and the contemporary idiom of nuclear explosion (countdown to zero) to convey threats to humanity and the planet. The Doomsday Clock is set every year by the Bulletin’s Science and Security Board in consultation with its Board of Sponsors, which includes 13 Nobel laureates. The Clock has become a universally recognized indicator of the world’s vulnerability to catastrophe from nuclear weapons, climate change, and disruptive technologies in other domains.* <https://thebulletin.org/doomsday-clock/current-time/> -CAT

Humanity continues to suffer as the COVID-19 pandemic spreads around the world. In 2020 alone, this novel disease killed 1.7 million people and sickened at least 70 million more. The pandemic revealed just how unprepared and unwilling countries and the international system are to handle global emergencies properly. In this time of genuine crisis, governments too often abdicated responsibility, ignored scientific advice, did not cooperate or communicate effectively, and consequently failed to protect the health and welfare of their citizens. As a result, many hundreds of thousands of human beings died needlessly. Though lethal on a massive scale, this particular pandemic is not an existential threat. Its consequences are grave and will be lasting. But COVID-19 will not obliterate civilization, and we expect the disease to recede eventually. Still, the pandemic serves as a historic wake-up call, a vivid illustration that national governments and international organizations are unprepared to manage nuclear weapons and climate change, which currently pose existential threats to humanity, or the other dangers—including more virulent pandemics and next-generation warfare—that could threaten civilization in the near future. Accelerating nuclear programs in multiple countries moved the world into less stable and manageable territory last year. Development of hypersonic glide vehicles, ballistic missile defenses, and weapons-delivery systems that can flexibly use conventional or nuclear warheads may raise the probability of miscalculation in times of tension. Events like the deadly assault earlier this month on the US Capitol renewed legitimate concerns about national leaders who have sole control of the use of nuclear weapons. Nuclear nations, however, have ignored or undermined practical and available diplomatic and security tools for managing nuclear risks. By our estimation, the potential for the world to stumble into nuclear war—an ever-present danger over the last 75 years—increased in 2020. An extremely dangerous global failure to address existential threats—what we called “the new abnormal” in 2019—tightened its grip in the nuclear realm in the past year, increasing the likelihood of catastrophe. Governments have also failed to sufficiently address climate change. A pandemic-related economic slowdown temporarily reduced the carbon dioxide emissions that cause global warming. But over the coming decade fossil fuel use needs to decline precipitously if the worst effects of climate change are to be avoided. Instead, fossil fuel development and production are projected to increase. Atmospheric greenhouse gas concentrations hit a record high in 2020, one of the two warmest years on record. The massive wildfires and catastrophic cyclones of 2020 are illustrations of the major devastation that will only increase if governments do not significantly and quickly amplify their efforts to bring greenhouse gas emissions essentially to zero. As we noted in our [last Doomsday Clock statement](https://thebulletin.org/doomsday-clock/current-time/), the existential threats of nuclear weapons and climate change have intensified in recent years because of a threat multiplier: the continuing corruption of the information ecosphere on which democracy and public decision-making depend. Here, again, the COVID-19 pandemic is a wake-up call. False and misleading information disseminated over the internet—including misrepresentation of COVID-19’s seriousness, promotion of false cures, and politicization of low-cost protective measures such as face masks—created social chaos in many countries and led to unnecessary death. This wanton disregard for science and the large-scale embrace of conspiratorial nonsense—often driven by political figures and partisan media—undermined the ability of responsible national and global leaders to protect the security of their citizens. False conspiracy theories about a “stolen” presidential election led to rioting that resulted in the death of five people and the first hostile occupation of the US Capitol since 1814. In 2020, online lying literally killed. Considered by themselves, these negative events in the nuclear, climate change, and disinformation arenas might justify moving the clock closer to midnight. But amid the gloom, we see some positive developments. The election of a US president who acknowledges climate change as a profound threat and supports international cooperation and science-based policy puts the world on a better footing to address global problems. For example, the United States has already announced it is rejoining the Paris Agreement on climate change and the Biden administration has offered to extend the New START arms control agreement with Russia for five years. In the context of a post-pandemic return to relative stability, more such demonstrations of renewed interest in and respect for science and multilateral cooperation could create the basis for a safer and saner world. Because these developments have not yet yielded substantive progress toward a safer world, they are not sufficient to move the Clock away from midnight. But they are positive and do weigh against the profound dangers of institutional decay, science denialism, aggressive nuclear postures, and disinformation campaigns discussed in our 2020 statement. The members of the Science and Security Board therefore set the Doomsday Clock at 100 seconds to midnight, the closest it has ever been to civilization-ending apocalypse and the same time we set in 2020. It is deeply unfortunate that the global response to the pandemic over the past year has explicitly validated many of the concerns we have voiced for decades. We continue to believe that human beings can manage the dangers posed by modern technology, even in times of crisis. But if humanity is to avoid an existential catastrophe—one that would dwarf anything it has yet seen—national leaders must do a far better job of countering disinformation, heeding science, and cooperating to diminish global risks. Citizens around the world can and should organize and demand—through public protests, at ballot boxes, and in other creative ways—that their governments reorder their priorities and cooperate domestically and internationally to reduce the risk of nuclear war, climate change, and other global disasters, including pandemic disease. We have experienced the consequences of inaction. It is time to respond.