

Artemis Accord – A Critical Analysis of Global Norm-Making in Outer Space

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Outer space and its resources have gained geostrategic importance in recent years due to their vital uses and the potential they offer for humanity's future. This has led to a surge in the global pursuit of outer space exploration, while also revealing weaknesses in the current governance framework. Although existing norms are based on the shared heritage of mankind, disagreements remain on how this ownership should be managed. Additionally, critical gaps, such as the lack of consensus on fundamental norms regarding issues like the exploitation of the moon and its militarization, debris removal, and the legal status of outer space resources, among others, have increased global competition and elevated the contestations to national interest and security considerations. Given the above context, the United States and the National Aeronautics and Space Administration (NASA) have created the Artemis Accords to establish guiding principles relating to the exploration and use of the Moon and other celestial bodies. This analysis evaluates the extent to which the Artemis Accords conform to established international legal frameworks, such as the Outer Space Treaty and the Moon Agreement, drawing on UN resolutions, NASA policy frameworks, and academic literature. It specifically investigates whether the principles embodied in the Accords pose a unilateral challenge to existing international space law or signify the formation of new norms. Ultimately, this study suggests a way forward to aligning the Artemis Accords with emerging trends in outer space development and governance.

Keywords: Outer Space Treaty, International Law, International Legal Norms, Soft Law, Artemis Accords, United States Space Policy, National Aeronautics and Space Administration

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Introduction

International space law emerged during the Cold War in the 1960s, coinciding with the onset of the space race. In the subsequent two decades, five key treaties were established (Durkee, 2024). These treaties were influenced by the geopolitical tensions of the time, particularly concerns regarding the national appropriation of space objects and the potential militarisation of space. They are largely minimalistic, primarily designed to prevent armament and territorial claims while outlining general principles.

The 1967 Outer Space Treaty (OST) stands as the cornerstone of space law, emphasising that outer space is the common heritage of mankind (CHM) and should be utilised for the benefit of all. Building on this, the principles enshrined in the OST assert that all states possess equal rights to explore outer space and that activities should promote the interests of humanity. Furthermore, states are required to refrain from causing harmful interference with the space endeavors of others (West & Miller, 2023).

Over five decades since the establishment of the first space treaties, space exploration and utilisation have become increasingly significant due to rapid technological advancements and greater participation in the space industry. As a result, the legal framework governing outer space faces several governance challenges, including regulatory ambiguities and uncertainties surrounding international cooperation, liability, and property rights. These challenges are expected to escalate as space exploration continues to expand and evolve in unpredictable ways (Shull et al., 2023). This evolving landscape has consequently led to a shift in space law from broad general principles to more specific practices (LegalStix, 2023).

The shift to specific practices is primarily driven by the geopolitical interests of space-faring nations. Additionally, advancements in technology and the rise of private companies as dominant actors in outer space, present serious governance challenges in areas such as national security, environmental protection, and the rule of law in space (Frandsen, 2023). In response to the expanding, securitised, and privatised activities in outer space, the existing governance framework established by the foundational space treaties has proven inadequate for addressing the evolving complexities. Consequently, states like the United States of America (USA) have developed initiatives such as the Artemis Accords to safeguard exploration activities on the Moon and other celestial bodies.

The Artemis Accords creates a mechanism for defining boundaries around potential future activities and embodies principles essential for governing the exploration and use of the Moon and, eventually, missions to Mars. Consequently, the Artemis Accords represents a significant development in the governance of a new era of space activities (Fidler, 2020). This paper analyses the Accords as a momentous step in international space norm creation, critically evaluating how it contributes to or challenges outer space governance. This paper concludes by presenting a strategic framework for aligning the Artemis Accords with emerging trends in outer space development and governance.

Overview of international treaties, agreements, and organisations governing outer space

Since the 1950s, when space exploration activities started, outer space has seen substantial transformation. The first moon landing's impact on Earth was largely confined to societal reactions, given the limited integration between space and terrestrial processes in that era

(Ezell, 2022). To regulate space activity, the United Nations (UN) adopted a number of treaties in the 1960s and 1970s. The OST (1967) provides the most widely accepted set of guidelines for space governance. The UN Office for Outer Space Affairs lists the other four agreements as the Moon Agreement (1979), the Registration Convention (1975), the Liability Convention (1972), and the Rescue Agreement (1968).

These treaties recognise the legal right of all nations to explore and use outer space and establish a governance framework for international cooperation (LegalStix, 2023). The CHM principle, as outlined in Article 1 of the OST, emphasises that the exploration and use of outer space, including the Moon and other celestial bodies, must benefit all countries, regardless of their economic or scientific development. Building on this principle, Article 4 of the Moon Agreement further asserts that the exploration and utilisation of the Moon should benefit all of humanity and serve the interests of every nation, independent of their level of development. Additionally, Article 11 of the treaty emphasise that “the Moon and its natural resources” are considered CHM, and that no nation can claim sovereignty over the Moon through appropriation, occupation, or any other method.

The concept of CHM suggests that these areas should be used for the good of all people, not just those with the technological know-how to exploit natural resources (Schrijver, 2016; Nonini, 2006). While Article I of the OST promotes space exploration by creating the principle of unrestricted use and access, Article II of the treaty limits the scope of space exploration. It provides that no nation can claim outer space, including the moon and other celestial bodies, as its own, whether through ownership, use, or occupation. This provision has been argued to have attained the status of customary international law (Paliouras, 2014; Tronchetti, 2008).

However, with increasing private participation in space exploration, the applicability of Article II to these entities is debated. Some scholars argue that the provision should apply to private entities despite their omission, citing the unclear language of the provision (Oh, 2023; Tronchetti, 2008). In contrast, Capurso (2018) suggests that using Roman law interpretation, the prohibition of appropriation might be limited to specific property rights, potentially allowing other forms of resource utilisation without violating the OST.

In contrast to the OST, which restricts the prohibition on property rights to states, the Moon Agreement explicitly extends this principle to private entities (Kehr, 2023). This broader scope is significant, as it acknowledges the increasing involvement of non-state actors in space exploration and utilisation. However, with only 18 signatories and 6 ratifications, none of which are major space-faring nations, the agreement’s effectiveness is considered limited. As a result, the moon may be susceptible to exploitation by states and private entities that do not adhere to the principles outlined in the agreement, exemplified by individuals like Dennis Hope, who in 1980 made a claim to the moon and has since been selling parcels of lunar property (Toosi, 2019). Despite these challenges, the agreement’s provisions remain essential for understanding the evolving governance framework of outer space, particularly concerning the activities of private entities.

In addition to the OST and the Moon Agreement, several principles and codes of conduct were established in the 1980s and 1990s that outline non-binding rules for various space activities. These activities include television broadcasting, remote sensing, and the use of nuclear power sources (Tronchetti, 2013). The Committee on the Peaceful Uses of Outer Space (COPUOS), created by the General Assembly in 1959, aims to govern the exploration and utilisation of outer space for the benefit of all humanity (UN Office for Outer Space Affairs, 2025). To this end, COPUOS has developed several sets of non-binding guidelines,

including the Space Debris Mitigation Guidelines (2010) and the Guidelines for the Long-Term Sustainability of Outer Space Activities (2018).

Governance and regulatory gaps in the outer space regime

The UN framework for space governance has demonstrated a poor institutional fit for regulating and coordinating modern space activities (Ezell, 2022). It struggles to keep up with rapid technological progress and growing space activities. This has led to regulatory gaps. Slow regulatory processes, political tensions, and conflicting views among member states have hindered efforts to address these gaps (Ezell, 2022). This section highlights existing gaps in outer space governance.

The concept of the CHM as outlined in the OST is fraught with contradictions. It is unclear what the mandate to explore and use space for the benefit of all humanity means (Khatwani, 2019; Oduntan, 2005). While some states may share certain interests, others may not benefit from the pursuits of any single nation (Soucek & Christian, 2011). Additionally, the term “benefit-sharing” is ambiguous; it raises the question of whether it requires the practical sharing and transfer of technological knowledge (Tronchetti, 2010) or if it simply implies that space utilisation should be non-harmful (Force, 2016).

This ambiguity complicates the debate on the level of international regulation required to ensure that outer space is utilised equitably as a public resource (Oduntan, 2003). This notwithstanding, delegations at COPUS have proposed three different interpretations of benefit-sharing obligations (Deplano, 2023). One approach advocates international cooperation to develop capacity in non-spacefaring states. This approach emphasises equal rights to benefit from outer space exploration and use, facilitated through mandatory cooperation, technology transfer, and equitable benefit sharing (Deplano, 2023).

The second approach advocates for voluntary international cooperation between developed and developing countries as equal partners (Deplano, 2023). This approach allows states to determine cooperation terms on a mutually acceptable basis, rather than prioritising favourable terms for developing countries. However, this approach raises concerns that spacefaring states may dictate benefits for the international community, potentially exploiting developing countries in the absence of equitable criteria (Deplano, 2023). The third approach prioritises inclusivity in outer space exploration and use. It advocates for equitable benefit sharing among the international community through a global mechanism that coordinates space resource activities and redistributes extracted resources (Deplano, 2023).

The ambiguities concerning the CHM principle arising from the language and tone of the provisions outlined in the OST can be understood by examining Article II. This Article imposes restrictions on appropriation and notably does not reference private companies, which, at the time the treaty was created, were not significant players in space activities. This omission has been interpreted as a way to exempt private companies from the implications of Article II of the OST (Bravo, 2024).

Additionally, the legal ambiguity arising from the intersection of space law and other governing frameworks presents significant challenges (West & Miller, 2023). In this regard, multiple governance arrangements by a complex interplay of space law, international law, and international humanitarian law can be observed. This regulatory landscape can lead to conflicts and uncertainties, especially as these areas of law operate across multiple domains that link terrestrial activities with the vast expanse of outer space through various digital and

cyber networks (Von der Dunk, 2021). For instance, the application of space law is primarily focused on the exploration and use of outer space, aiming to ensure peaceful and responsible activities beyond Earth's atmosphere. However, as space activities increase and more countries and private entities engage in these endeavours, the potential for overlaps or clashes with international law, particularly concerning issues such as property rights, liability for damage, and military operations, intensifies. Additionally, the rapid evolution of cyber technologies introduces further complexity, as actions in the cyber domain can have significant ramifications in space, necessitating a cohesive approach to governance that adequately addresses these multifaceted relationships.

Due to rapid change and dynamic expansion, the governance system originally constructed under the framework of the five UN space treaties may require revisions and updates to effectively address current challenges (Atkin et al., 2022). A coherent international space regulatory framework that addresses licensing, security interest registration, dispute settlement, and liability in the event of a collision is currently lacking. Individual countries have, therefore, developed their unique space laws and policies in response to this regulatory vacuum, and they are currently pursuing new space programmes with unprecedented financial outlays (Atkin et al., 2022). Japan, for instance, introduced in 2021, the Act on the Promotion of Business Activities for the Exploration and Development of Space Resources to encourage private sector involvement in space resource exploration and development (Library of Congress, 2021). This may result in inconsistent and conflicting laws among countries regarding fundamental rights and responsibilities in space activities, which could increase the likelihood of disputes and create an unstable environment for business operations in space.

International Law and norm creation in outer space governance

To assess the extent to which any unilateral space regulation contributes to the establishment of a new global norm in outer space governance and to what degree they may undermine the existing governance framework, it is essential to examine the process of norm creation within international law. International law provides a framework for international relations that is both normative and operational. It encompasses the general protocols and structures that guide the conduct of international relations (Ku & Diehl, 2003).

International law functions like an operating system that shapes international relations by outlining essential principles and objectives that need to be upheld. Therefore, if it is viewed as the loosely structured “frameworks” that guide international politics, the normative aspect embodies the goals and values that actors in the international arena strive to achieve (Ku & Diehl, 2003). This normative framework lays out specific rules and prohibitions, and its concept is akin to Hart's notion of primary rules, which impose obligations on actors to either take action or refrain from doing so (Hart, 1994, p. 94).

The Statute of the International Court of Justice in Article 38 identifies the sources of international law as treaties, customary international law, general principles of law recognised by civilised nations, judicial decisions, and writings of the most highly qualified publicists. Previously, until a new treaty was signed, or a new customary international law confirmed, many legal experts and international courts merely accepted the idea that no law controlled a given subject. Today, all but the most dogmatic scholars recognise a place for “soft law.”

Boyle (2018: 119) defines soft law as non-legally binding instruments used in contemporary international relations by states and international organisations. In international law, soft

law serves several purposes and takes various forms. It acts as an alternative to treaty law, although it is less likely to be enforced in courts or through other formal procedures (Brus, 2018). Additionally, soft law guides on implementing treaties and represents a step in the development of international legal principles. It also serves as evidence of *opinio juris* in the formation of international customary law (Brus, 2018). Soft law instruments may include UN General Assembly resolutions, declarations, or action plans.

The process of creating binding laws through treaties is complex and involves several stages of negotiation. Consequently, there has been an increasing trend among states to rely on soft law instruments. However, soft law is not without its drawbacks. These instruments often lack clarity and can be susceptible to diverse interpretations, which may result in confusion and inconsistent application. Additionally, they may fail to provide definitive accountability mechanisms, leading to uneven enforcement where more powerful actors can overlook them (Shelton, 2008). Despite these challenges, states seem to recognise that these soft law instruments represent political commitments that could potentially evolve into legislative measures. For now, however, they remain primarily political (Raustiala, 2005). The contemporary debate is whether the practice of adopting them constitutes evidence of new modes of international law-making (Shelton, 2008).

Khagram et al. (2002) describe global norms as the shared expectations or standards of acceptable behaviour recognised by states and intergovernmental organisations. These norms can also involve non-state actors. Acting as a form of soft law, norms often arise in response to crises or as new measures based on existing principles. The establishment of global norms depends on the consent of a state or organisation to adhere to the recognised rules, or standards.

In this regard, Martinsson (2011) identifies four ways norms are established in the international community: the legal route, multistakeholder initiatives, global policy networks, and transnational advocacy. The legal route involves the process by which countries and international organizations create standards through conventions, declarations, and treaties. Multistakeholder initiatives establish standards in the international community through inclusive, deliberative processes that bring together diverse stakeholders, including governments, international organizations, the commercial sector, and civil society (Martinsson, 2011). For these initiatives to be effective, the norms they create must gain widespread recognition from states and global actors.

Furthermore, global policy networks contribute to global norm formation and agenda-setting by bringing new issues into public discourse. It usually involves a partnership between state and non-state actors to introduce new issues and ideas into public discourse, thereby complementing policymaking and international cooperation. The strength of networks lies in their capacity to innovate, create, share, and bridge knowledge while seeking synergies through collaboration with various actors (Weyrauch, 2007). Transnational advocacy involves advocacy of norms by non-state actors through transnational campaigns (Martinsson, 2011).

It must be noted that norm formation does not always adhere to all four pathways. It can also be established through just one of the four processes (Martinsson, 2011). This paper employs the four potential pathways to norm creation as a litmus test to determine whether the Artemis Accords will establish a new global norm in international space law or not.

International law is primarily based on consensus and is made up of norms that states, in a position of sovereign equality, willingly accept to govern themselves and other legal subjects. Therefore, a practice or regulation, which is unilaterally established to manage conduct in a

particular area of international concern, can evolve into a norm when it is agreed upon and accepted by states. The US Artemis Accord serves as a prime example of this process.

Despite the significant advancements in humanity's activities in space since the OST came into force, the most recent international treaty on space law is the 1984 Moon Agreement. The OST, often referred to as the "constitution" of the outer space regime (Martinez, 2019: 2), does not address the new challenges arising from the evolving nature of space activities. Additionally, there is no supportive space policy to back the OST and ensure the enforcement of its principles (Panjwani, 2020). As a result, general international space law has primarily developed through soft law instruments (Kulaga, 2023).

At the UN level, non-legally binding instruments have been established to advance space law development. Tapio and Soucek (2019) classify the five UN declarations and legal principles on space law as soft law, along with the annual UN General Assembly resolutions that endorse the outcomes of the COPUOS sessions. Following this same approach, the US government has pursued a non-binding multilateral, soft law arrangement known as the Artemis Accords (Neef, 2021).

The Artemis Accords

The Artemis Accords, initiated, drafted, and promoted by the USA, is a non-binding legal document for political commitment led by NASA and representatives from 8 other space agencies. The Accords are designed to enhance operational safety, reduce uncertainty, and promote the sustainable and beneficial use of space for all humankind (Artemis Accords, 2020b; Section 1). It forms part of the wider Artemis Programme led by NASA (NASA, 2020). As of January 21, 2025, Finland became the 53rd nation to sign the Accords (Principles, 2025).

A state that wants to work with NASA must first commit to following the guidelines outlined in the Accords (Artemis Accord, 2020a). The Artemis Programme is unique in that it plans to build a permanent outpost on the moon, complete with a self-sustaining lunar colony and a dedicated orbital station. NASA is seeking worldwide cooperation from states and commercial partners to further the Programme. A comprehensive set of thirteen clauses has been developed with this goal in mind, and they will be an essential component of any future agreement with foreign partners.

Three categories can be used to organise the thirteen operative paragraphs of the Accords. The first group merely applies some of the OST's fundamental tenets. In particular, the Accords' Section 3 emphasises that all space activities must be carried out in compliance with applicable international law and for "peaceful purposes." The second category carries out the OST's provisions, giving its rights and obligations more specificity and clarity (Deplano, 2021). The final and most contentious category presents new ideas (Högelsberger, 2024).

The first category contains clauses that are compliant with international duplicates those found in the OST. Sections 1 and 7 thereby reflect the idea of the good of humanity. The second category of the Accords references OST articles. The Accords in Section 10 highlights that the extraction and use of space resources, including any recovery efforts from the surface or subsurface of the Moon, Mars, comets, or asteroids, must be conducted following the OST. The Signatories assert that the extraction of space resources does not, by itself, constitute national appropriation as outlined in Article II of the OST and that contracts and other legal frameworks on space resources should comply with OST principles.

The second category is not without controversy, as some critics argue it reflects a flawed interpretation influenced by US-centric exegesis and Article 31(3) of the Vienna Convention on the Law of Treaties (VCLT) (Högelsberger, 2024). Specifically, Sections 10(1) and (2) of the Artemis Accords state that “the extraction of space resources does not inherently constitute a national appropriation under Article II of the OST.” This assertion directly contradicts the principle of non-appropriation outlined in Article II of the OST. The US justifies Section 10 by claiming that the exploitation of space resources does not violate the prohibition established in Article II of the OST. Rather than embracing the concept of a global commons, USA views space as a distinct domain of human activity, both physically and legally (Bartóki-Gönczy & Nagy, 2023).

This claim has been heavily contested by scholars who argue that it undermines the non-appropriation principle of the OST. The terms “exploration” and “use and exploitation” each carry distinct legal and ethical implications in the context of outer space activities (United, 2025). According to Hobe et al. (2009), the term “use,” as referenced in Article I of the OST, encompasses both non-economic and commercial activities in space indicating a broader interpretation of how space can be utilised, extending beyond mere economic gain.

The third category presents novel ideas that aren’t specifically covered by the OST or by public international law. Among the new considerations in the developing field of space governance is the preservation of outer space heritage. Section 9 of the Accords defines outer space heritage as historically significant sites, artifacts, and evidence of human activity on celestial bodies, which signatories agree to preserve through mutually developed standards. Examples include the Apollo 11 flag and the Chinese flag planted by Chang’e 5. Damaging such historic objects could trigger state responsibility under the OST’s principle of due regard, as these objects remain the property of the launching state (Deplano, 2021).

The effect of the Artemis Accords on the OST and other international space law instruments

The Accords, while non-binding, has ignited debates about its implications for established international space law. Although the Accords reaffirms certain values from the OST, it also contains provisions that may conflict with core OST principles. The focus of the discussion will be on these contentious sections to evaluate whether the Accords supports or undermines the OST.

The Accords, in its preamble, states that it aims to “implement the provisions of the OST and other relevant international instruments” (Artemis Accords, 2020b). However, it contradicts these instruments in significant ways. First, Article I of the OST stipulates that space resources cannot be subject to national appropriation by any means. In contrast, the Accords seeks to promote the collection and exploitation of space resources, especially for commercial purposes. This intent directly conflicts with the guiding principles set forth by the OST. Such pro-appropriation policies reflect the long-standing argument of the USA that resources in space can be privately owned and utilised (Boley & Byers, 2020). The USA argues that private ownership and use of extraterrestrial resources do not constitute “national appropriation,” thereby claiming that the terms of the OST remain intact (Oh, 2023).

Further, Erlank (2017) argues that Article II of the OST does not explicitly extend its prohibition to private appropriation. This distinction raises concerns about the potential for states to evade their responsibilities by operating through private enterprises. However, Article

VI of the OST ensures that states bear international responsibility for activities carried out by private entities, requiring authorisation and oversight. Laws permitting private ownership of space resources may effectively allow states to assert sovereignty over those resources, as national governments retain authority (Bravo, 2024). The interplay between Articles II and VI highlights the need for clarity on the application of the non-appropriation principle to private entities.

Also, Section 10 of the Accords was specifically crafted with the USA's stance on space property rights in mind (Atkin et al., 2022). This unilateral action challenges the principles of non-appropriation and raises questions about the potential for countries to utilise private entities to undertake activities that would otherwise be restricted under treaty obligations. Given that the non-appropriation clause is inherently tied to the CHM principle, this move by the USA may have implications for the application and effectiveness of the CHM principle.

Additionally, the non-recognition of the CHM principle by the USA is a key reason why the Accords, which is primarily focused on lunar exploration, does not mention the Moon Agreement. The Moon Agreement takes a 'global commons' approach, declaring the Moon and its resources as CHM. Specifically, Article II states that the Moon isn't subject to national appropriation. This creates a significant incompatibility between the Moon Agreement and the Accords (Atkin et al., 2022).

Moreover, the OST and other UN-sponsored agreements were crafted in the aftermath of the Cold War, a period that necessitated certain compromises to ease the geopolitical tensions between the dominant powers of that time: the USA and the USSR. While these UN treaties come with their limitations, they do offer consensus-based solutions (Högelsberger, 2024). In sharp contrast, the Artemis Accords appears to be a unilateral initiative by the USA, as its drafting was primarily its responsibility. Given the current complex landscape of global relations and the rise of multiple world powers, this unilateral approach is viewed by some nations as a move that promotes US-centric international space law. This has, in turn, intensified geopolitical tensions and competition, undermining the very stability that the OST and related international space laws were designed to uphold.

The current format of the Accords may impact geopolitical tensions and raise questions about the property and ownership of outer space resources. This could have implications for the stability and predictability of international space law, potentially affecting investment in outer space activities (Atkin et al., 2022). Since the Accords was announced, major global powers like Russia and China have voiced significant opposition. In March 2021, China, through its National Space Administration, entered into a Memorandum of Understanding (MOU) with the Russian Space Agency. This agreement focuses on the collaborative construction of an independent lunar research base aimed at exploring and utilising lunar resources (China, 2021). The International Lunar Research Station plans to operate under a distinct set of normative guidelines for cooperation and is actively looking to engage additional international partners (Atkin et al., 2022). Ultimately, the perceived US-centric approach of the Accords may contribute to further fragmentation in space law, potentially undermining the principles established by the OST.

The Artemis Accords: The creation of a new global space norm?

This section examines whether the introduction of the Accords and its provisions contributes to the establishment of a new global space norm. As previously mentioned, the Accords can be categorised into three groups.

Section 9 specifically focuses on the preservation of space heritage. It highlights the commitment of the signatories to protect the heritage of outer space, which includes historically significant landing sites, artefacts, spacecraft, and other remnants of human activity on celestial bodies. It is worth noting that this provision is absent in the OST and is only briefly mentioned in Article 7(3) of the Moon Agreement. Additionally, the UNESCO World Heritage Convention does not apply in this context. While Article 7(3) and Article 4 of the Moon Agreement and UNESCO Convention, respectively cover the purpose of a safety zone and facilitate the measured utilisation of natural resources, the space heritage clause seeks to protect human heritage in outer space. This provision is characteristically novel and not captured or contemplated in any international legal instrument.

Sections 1 and 13 of the Accords indicate that the Accords contain political commitments and therefore will not be registered under Article 102 of the UN Charter. It can be reasonably inferred that the Accords cannot evolve into norms. This paper holds a contrary view. As a soft law, the Accords can still influence norm creation, even if it is not a binding treaty.

First of all, state parties that seek to become a signatories to the Accords must commit to its provisions, which would be binding upon them. This paper notes that this is a major step in creating a norm in the comity of nations. Furthermore, it can be gleaned from existing literature and commentaries that the clause on space heritage was finally given a textual expression after it was woven through predecessor national legislations in the USA. Before the Artemis Accords, NASA issued very detailed recommendations in 2011 on “How to Protect and Preserve the Historic and Scientific Value of U.S. Government Lunar Activities” (NASA’s, 2011), and the U.S Congress adopted the “One Small Step to Protect Human Heritage in Space Act” (Statute 3359). These legislations shaped the language and tenor of Section 9.

Additionally, the formulation of the Accords must also be taken into consideration. Although the Accords forms a part of a broader NASA agenda, the character of the Accords is subject to a legal process which involves the signatories of participants and the election of participants to be bound by the edicts of the instrument. This process brings the Accords within the contemplation of the legal route in norm creation, as stated and recognised in existing literature (Martinsson, 2011; Dubash, 2009). Again, even though the pro-appropriation policies set out in the Accords violate existing fundamental principles contained in the OST and other relevant international space law instruments, these inclusion of the same ushers a new era in space exploration, particularly, non-state actors, who were not recognised and clothed with right to have access to space resources. It can be argued that, while the Accords may not be legally binding, the introduction of such clauses as the space heritage may serve as a launching pad for the creation of a new global norm in space. Therefore, the principles set out in the Accords may be a basis for later discussions within or without the UN framework and with time as more states sign onto it and practice its provisions, it may become customary international law.

Conclusion

Faced with the uncertainty and dangers of outer space, the existing governance framework has proven to be woefully inadequate to address the problem that comes with the dynamism involved in contemporary space exploration. Interestingly, some space-faring nations are defining clearer and more precise policies than existing international legal frameworks on outer space. One notable example is the Artemis Accords.

The Accords consists of policies and practice guidelines that are non-binding, initiated, drafted, and promoted unilaterally by the USA. Although the Accords signifies a significant shift in how outer space is governed, the principles outlined within it primarily contradict established norms, such as non-appropriation and CHM, as articulated in the OST and other pertinent international space laws. However, the inclusion of new principles, like the preservation of space heritage, underscores the emergence of a fresh global norm. This signals a significant evolution, as it builds upon existing norms governing outer space activities.

Given the significance of the Accords in shaping space governance, the UN should consider strengthening institutional arrangements to coordinate the interpretation and implementation of existing treaties and soft law instruments. One approach could be to revise the objective and structure of the United Nations Office for Outer Space Affairs (UNOOSA) or the COPUOS to take on a more central role. This could involve enhancing their mandate to ensure the execution of the CHM principle and overseeing space laws. Alternatively, a new independent international organisation could be established, similar to the International Seabed Authority which organises and manages all mineral resource-related activities in the Area for the benefit of all mankind. This organisation could play a regulatory and management role over all space laws, rather than leaving it solely to independent national agencies like NASA. In either case, a more coordinated approach to space governance would help address the increasing challenges in the field. The Artemis Accords, with their dual nature as both legally controversial and normatively innovative, are poised to shape the future of space governance. As a soft law instrument, the Accords may still influence customary law over time, underscoring the need for careful consideration of their implications.

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