

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)  
Legal Issues Relating to Emerging Space Activities on Celestial Bodies (3)

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BENEFIT SHARING: OUTER SPACE TREATY FATE OR UTOPIA?

**Abstract**

The exploration and use of outer space have been increasing significantly, raising the need for appropriate legal frameworks and instruments to govern activities and ensure responsible behaviour. Future space resource activities will demand concrete mechanisms to ensure that all peoples will benefit from them. Legal and regulatory clarity, such as clarifying rules for sharing, would incentivize operators and investors while facilitating improved sharing of benefits. Outer space is arguably regarded as a global commons, a domain which may be used by all States, but is not subject to appropriation. Article I of the Outer Space Treaty (OST) establishes the common benefit principle and states that the use and exploration of outer space shall be the province of all humankind. Moreover, the treaty highlights the importance of international cooperation in space activities and due regard to the interests of other States parties. In line with the principles of the treaty, the concept of benefit sharing has emerged, calling for the equitable distribution of benefits derived from space activities. Benefit sharing seeks to ensure that the use of space resources and technologies contributes to sustainable development, benefiting all humankind. This working paper discusses the benefit sharing concept and investigates whether "benefit sharing" results from the OST or is a mere utopia from misinterpretation of the treaty. The first part examines the legal issues in art. I OST concerning the province of humankind provision, the common benefit clause, and discusses the legal nature of outer space as a global commons. The second part analyses cooperation in the OST, the common heritage concept introduced by the Moon Agreement (MA), vis-à-vis the OST principles, and considers the relevance of establishing benefit sharing mechanisms for outer space activities. By examining the travaux préparatoires of the OST and MA, and exploring possible reinterpretations of provisions in the current scenario, the third part investigates if benefit sharing can be recognised as an obligation emerging from the OST or would be outside its scope. Finally, the last part presents the conclusions of the research and suggests manners of operating benefit sharing from space resource activities. The research methodology is bibliographical and documental, through qualitative analysis. Analytical method and applied legal research are used herein.