

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
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THE DEONTIC LOGIC OF SPACE LAW APPLIED TO LUNAR SCENARIOS

Abstract

The existing normative framework governing activities on celestial bodies is a set of broad principles, comprising binding—yet often vague—legal norms, national space legislation, customary international law, a modest amount of state practice, and some general principles of international law. In order to further develop the rule of law for the Moon and other celestial bodies, understanding the existing framework—including both what the law says, and what it does not say—is an essential first step.

Therefore, this paper will group the current set of rules governing celestial bodies using the deontic logic of freedoms & privileges, licenses, obligations, prohibitions, and legal deficiencies. Legal deficiencies, those “no law” areas, include both unintentional and intentional gaps (*lacunæ*), as well as instances of unclarity (*non liquet*), whereby subjects of the law lack sufficient legal guidance as to what behavior constitutes compliance with the law.

This grouping of legal norms will then be complemented with a few near-term lunar scenarios where (for example) actors enjoy broad freedoms under Article I of the Outer Space Treaty, as well as obligations of cooperation, mutual assistance, and due regard to the corresponding interest of other actors under Article IX. Do these overlapping legal rules create legal clarity, and if not, what further norms must be created to foster peaceful and sustainable activities on the Moon and other celestial bodies?

More practically, what planned near-term missions and activities highlight deficiencies in the existing law, and therefore serve as pressing governance challenges to be quickly addressed?