
Over the Moon - Human Rights and the Artemis Accords

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APA Reference

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On October 13, a diverse [US-led coalition](#) of space-capable nations formally signed the Artemis Accords during the 2020 International Astronautical Congress, symbolising their collective intent to create and abide by a new set of principles governing norms of behavior on the Moon.

The proposal for the Accords was first floated in [May 2020](#), when the Trump administration announced its intent to create a new legal blueprint covering in-situ resource acquisition on the Moon. The signing brings an end to the long process of bilateral negotiations, while signalling the beginnings of a new international rules-based order in outer space.

Under Section 1 of the [2020 Artemis Accords](#), the purpose and scope of this agreement seeks “*to establish a common vision via a practical set of principles, guidelines, and best practices to enhance the governance of the civil exploration and use of outer space with the intention of advancing the Artemis Program.*”

The [Artemis lunar exploration program](#) stands as the centrepiece of US ambitions to build upon the legacy of the Apollo missions, in returning to the lunar surface by 2024. According to NASA, the human spaceflight program represents “*...the first step in the next era of human exploration... [With the goal of] establishing a sustainable presence on the Moon to prepare for missions to Mars.*” Although the program was unilaterally set in motion by Washington, the Artemis Accords signals the US’s commitment to work collaboratively with willing international partners in a transparent manner.

In many ways, this minilateral agreement reinforces prior international agreements concerning the peaceful exploration and use of outer space. The Accords directly affirms its commitment to established international norms in outer space - highlighting the importance of compliance with the *1967 Outer Space Treaty (OST)*, *1968 Rescue and Return Agreement (RRA)*, *1972 Liability Convention*, and *1975 Registration Convention*.

Prima facie, these affirmations do not demonstrate an explicit commitment to respect, protect and fulfill international human rights law (IHRL) in the outer space domain. However, a closer inspection of the Accords indicates a willingness of the signatories to consider relevant aspects of IHRL.

In focus are Sections 3, 6 and 9 of the Accords, bolstering international commitment to the principles which underpin respect for and recognition of human rights - including the *Right to Peace (RTP)*, the *Right to Life (RTL)*, and the *Right to Culture (RTC)*. In this view, the Artemis Accords symbolize a positive step in supporting the application of IHRL extraterritorially - inviting parties to apply relevant human rights values and principles across human spaceflight activities.

Where there arises [the need](#) to recognize individual dignity and rights, and promote all human activities in space via the extension of human rights - including a non-derogable, absolute right to water, life, and



healthy environment - the Accords exist as a vehicle through which its signatories may further the inherence, inalienable, and universality of human rights across the final frontier.

Peaceful Activity, Emergency Assistance, and Associated Rights

The Accords present a watershed opportunity in forming points of understanding and subsequent agreements - including the stronger commitment to engaging in peaceful activities, and in support of emergency assistance across outer space affairs. Respectively, these areas bear an implied association with the continuing obligation of UN Member States under international law to uphold RTP and safeguard RTL across all of their activities.

Consequently, these rights are interdependent and interrelated, where the deprivation of one right adversely affects the others, it is not possible to simply follow some human rights principles and disregard others. Support for these two foundational rights should be considered essential in realizing the associated procedural rights necessary to supporting life, liberty and the pursuit of happiness in the outer space environment.

Conformity over these areas of concern envisages a protracted period of transparency and confidence building measures between signatories to the Accord, as each State comes to recognize and fulfill their newfound duties and responsibilities under this new framework. As part of this process, States must work to translate the aspirational and moral rhetoric contained within the Accords into strategic legal discourse, thereby operationalizing the protection and enforcement of foundational human rights principles as absolute and non-derogable within the outer space domain.

Following this, it is hoped that the widespread repetition of States applying IHRL extraterritorially into outer space over the following decade will eventually give rise to the prerequisite significant state practice, and *opinio juris*, required for the formation of [international customary law](#).

Section 3 - Peaceful Purposes

Under Section 3 of the Accords - *“cooperative activities under these Accords should be exclusively for peaceful purposes and in accordance with relevant international law.”* This bears direct reference to the notion of “peaceful purposes” advanced under [Article IV of the OST](#). The historically ambiguous interpretation of “peaceful purposes,” however, remains in dispute.

Within international space law (*ISL*) jurisprudence, there are broadly [two divergent perspectives](#) which exist surrounding the interpretation of the phrase ‘peaceful purposes’. The first contention is that held by the US, where the phrase is interpreted to mean ‘non-aggressive,’ while the second interpretation holds the phrase as meaning ‘non-military’.

While the implications of this ‘non-aggressive’ interpretation can be worrisome in a general sense, in the context of the Artemis Program it seems unlikely that cooperative activities will acquiesce into ‘non-aggressive’ military operations. Such has more to do with the goals of the program itself than the peaceful intentions of its stewards.

What appears more likely is that the [growing commitment](#) of the international community to peace in space will foster a state of affairs in which RTP is practically upheld, without being explicitly guaranteed within written agreements. Consequently, the formation of state practice surrounding RTP should be viewed as essential to the principle of intergenerational equity - securing humanity’s ability to explore the cosmos in a way that is sustainable and conflict free.

Future discussions surrounding the Accords must consider the implementation of more rigorous standards regarding peace and RTP as a fundamental human right in outer space, thereby respecting, protecting and fulfilling the RTP of individuals who dare to go where none have gone before.



Section 6 - Emergency Assistance

Under Section 6 of the Accords - that “*The Signatories commit to taking all reasonable efforts to render necessary assistance to personnel in outer space who are in distress, and acknowledge their obligations under the Rescue and Return Agreement.*” Accordingly, [Article 2 of the RRA](#) outlines that states parties are obligated to “take all possible steps” rescue and render necessary assistance to astronauts in distress.

This contention is also reflected within US space policy, wherein the official position of [NASA](#) states “*Providing emergency assistance to those in need is a cornerstone of any responsible civil space program... and under the Accords, NASA and partner nations commit to taking all reasonable steps possible to render assistance to astronauts in distress.*”

The collective commitment of these documents to assisting astronauts in distress bears direct relevance to RTL - wherein states are obligated to refrain from taking actions which arbitrarily deprive citizens of their RTL, and to assume measures which support and realise the inherent right of every human being to life. In respect to this positive obligation to support and realize RTL, relevant procedural rights are tied to a state’s active protection of the right to elements central to human life and survival in the outer space environment - including food, water, and oxygen.

This redux of prior commitments under preceding ISL agreements leaves much to be desired concerning State practice, since there continues to exist no detailed guarantee of the individual astronauts’ right to these essential elements. Yet the Accords’ consistent promise to provide all “necessary assistance” constitutes a promising step in the right direction. This provides the opportunity to develop such associated human rights - challenging the Accords’ signatories to develop RTL in the context of their activities on the lunar surface.

Preserving Cultural Heritage

Under Section 9 of the Accords, signatories committed to preserving “outer space heritage” in line with mutually developed standards - including historically significant sites, artefacts, spacecraft or evidence of activity on celestial bodies. This section draws specific allusions to the international principle of “[common heritage of mankind](#)”(CHM) - whereby elements regarded as beneficial to humanity as a whole should not be unilaterally exploited by individual states, but managed for the collective benefit of humanity. While the OST does not expressly reference CHM, it declares that States may explore and use outer space in a manner relevant to the interests of the international community, and that outer space be considered as the province of all mankind.

Notably, the Accords represent a departure from this notion of the collective management of outer space resources, providing for protection over such cultural heritage items as vested within the authority and control of individual signatories. This is noted within Section 11(7) in the establishment of “safety zones” as a means of precluding potential harmful interference.

From a human rights perspective, the concept of heritage is tied to [cultural rights](#) - recognizing that cultural rights are fundamental for the respect of human dignity in the diversity of its expressions, and [acknowledging](#) that the destruction of cultural heritage constitutes a violation of human rights. This view is [supported](#) under RTC as advanced under Article 27 of the *Universal Declaration of Human Rights*, and Article 5 of the *2001 UNESCO Declaration on Cultural Diversity*.

The Accords’ provisions protecting cultural heritage in space depict the first explicit reference to this issue across the various ISL agreements, and represents an implied acknowledgement of RTC within the preservation of outer space artefacts. The preservation of such cultural heritage items are supportive of individual and community rights to understand, visit, make use of, maintain, exchange and develop cultural heritage - to allow for an [enriched understanding](#) of the principle of universality of human rights by taking into consideration cultural diversity.

Future dialogue surrounding the Accords must centre upon reinforcing the relationship between space heritage and human rights. Promoting a new instance of state practice premised upon how a human



rights-based approach will contribute to the Accords' development of "mutually developed standards" for the management of outer space heritage.

Summary

On balance, the Artemis Accords stand as a positive opportunity for the development, and reciprocal adherence to, IHRL values and principles across outer space affairs. Although the content of the Accords does not present any explicit references to human rights, the underlying implications and intent of the document reinforces the continuing commitment of a defined coalition of world leaders to preserving outer space as the province of all mankind. Further, this agreement stands as a rare and unique example of US leadership, in an era where [similar international commitments](#) have been unrelentingly rolled back, sometimes without justification.

In conclusion, the Accords' proactive focus and optimism upon the use of outer space for peaceful purposes, continuing emphasis on the need for emergency assistance for astronauts and human spaceflight participants, and commitment to preserving cultural heritage, provides the greatest opportunity for the international community to chart a novel rights-based approach toward international peace, security and sustainability amongst the stars.

