

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Dispute Settlement (2)

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HUMAN SETTLEMENTS ON CELESTIAL BODIES AND ADR: CRITICAL ASPECTS FOR
CONSIDERATION

Abstract

Permanent human settlements on celestial bodies are in the process of materialization. In such settlements, there will inevitably be conflicts of various scales and nature, exacerbated by the hostile environment and the particularities of space missions. There may be interpersonal conflict in the framework of individual missions, conflicts between different teams of the same mission, conflicts between different missions of the same project, as well as conflicts between missions of different projects. In all such cases, dispute resolution mechanisms need to be established. These will often have to be implemented on site, to ensure the safety and good order of the mission, and prevent uncontrollable escalation of the conflict. Since it would be at least impractical to have proper courts in human settlements, alternative dispute resolution (ADR) methods are needed. All forms of ADR can be considered, depending on the nature and the severity of the dispute: negotiation, mediation, conciliation, arbitration. However, for all types of cases there must be at least codes of conduct in place, if not binding rules, to serve as reference or even as framework for the dispute resolution. There will be increasing importance for such rules as we move from negotiation, which involves no neutral third party, to arbitration, in which the neutral third party decides the dispute. Partially different rules may apply to different settings, e.g. general rules of conduct regarding a mission and special rules on specific operations. There should also be an overarching set of rules regarding human activities on celestial bodies, which must adhere to the OST. The rules will be useful for both resolving and preventing disputes. They should any consider technical standards and best practices for the operations concerned, wider policy objectives (e.g. balance of interests, avoiding escalation and use of armed force) and safeguards for neutrality for any third persons involved in the dispute resolution. Choice-of-law clauses in the pertinent rules would also be useful, especially for arbitration, whose outcome is binding to the parties. Online dispute resolution could too be an option, in which neutral third parties may be on Earth and undertake resolving the dispute through secure communication channels. The experience on remote procedures from the pandemic could serve as guidance. Further use of technology, such as AI systems to facilitate the resolution process could be envisaged, although the resolution should remain a human process.