

DR. GERSHON HASIN
VISITING LECTURER IN LAW, YALE LAW SCHOOL
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ACADEMIC APPOINTMENTS

Yale Law School, Visiting Lecturer in Law (2021 – Present).

- Courses taught:
 - *Law of the Sea*.
 - *Law and Policy in the Governance of Outer Space*.

Yale University College, Lecturer (Fall 2022).

- Courses taught: *Space Governance in the 21st Century*.

EDUCATION

Yale Law School, J.S.D., 2021

- Dissertation: “The Grotian Project: The Regime Evolution Approach to the Regulation of Common Areas under International Law”.
 - The project introduced the regime evolution approach to the regulation of common resources under international law. It reevaluated the regimes governing the oceans and space considering challenges posed by climate change and technological innovation.
 - Doctoral Committee: W. Michael Reisman (Chair), Daniel C. Esty (Co-Chair), Harold Hongju Koh, and Lea Brilmayer.
- Awarded the *Ambrose Gherini Prize 2020-2021*, best paper in the field of International Law.
- Co-taught the *Law of the Sea* seminar (Spring 2020).
- Teaching Assistant *International Investment Law* (Fall 2020).
- Teaching Assistant *Public Order of the World Community* (Fall 2020).
- Co-Chair, International Law Panel, Ninth YLS Doctoral Conference (2019).

Yale Law School, LL.M., 2019

- Participated in teaching the *Law of the Sea* seminar as Teaching Assistant (Spring 2019).
- *William T. Ketcham, Jr. Prize 2018-2019*, best paper in the field of private international law.

Tel Aviv University, Faculty of Law and Faculty of Social Science, LL.B., 2014

- Additional Undergraduate Degree in Political Science.
- Cited on the 2012/13 Faculty of Law’s Dean’s List for Excellent Academic Achievements.

PUBLICATIONS

Gershon Hasin, *Ocean Governance in the 21st Century: A New “Package-Deal” to Balance Mare Liberum and Mare Clausum*, 48 YALE J. INT’L L. (forthcoming).

The article proposes to shift ocean governance from the outdated reliance upon the natural land as a source of rights and obligations to a more nuanced approach which facilitates the optimum global order. The article demonstrates how technological innovation and climate

change, specifically the introduction of unmanned vessels, artificial islands, and rising sea-levels, undermine the balance between exclusive and inclusive rights under current ocean governance, thus triggering a process of regime evolution. First, having demonstrated that the natural land is no longer a stable and predictable source of title, I propose that the 'Land Dominates the Sea' principle should evolve to include elements termed 'Population Dominates the Sea'. Thus, I challenge the foundation of the Law of the Sea and propose that responses to artificial islands and submerging features should be treated together to facilitate a compromise solution detached from the outdated reliance on natural land. Second, to augment environmental protection and national security, yet promote the benefits of unmanned vessels, I suggest that the exclusive economic zone should evolve from a regime of enumerated rights in the spatial area to include rights to the spatial area. Finally, this article introduces the proposition, to be developed in future work, that ocean governance must evolve from focusing on exclusive and inclusive rights to including obligations to refrain from creating externalities that adversely affect others.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4052022 (pre-editing version)

Gershon Hasin, *Confronting Space Debris Through the Regime Evolution Approach*, 97 INT'L L. STUD. 1073 (2021) (peer-reviewed).

This article applies the regime evolution approach to the governance of space debris. Drawing from lessons learned from the regimes governing climate change, international investment law, and the Law of the Sea, I outline the anticipated stages of regime evolution and the proposed cooperation regime. Through policy-oriented jurisprudence, the article outlines the anticipated evolution of the international regime governing the mitigation of space debris, proposing the adoption of a bottom-up, nationally based, regime of cooperation to optimize the aggregated gain in values for affected stakeholders. Finally, the article proposes amendments to the international law governing direct foreign investment to facilitate the reduction of international environmental externalities.

<https://digital-commons.usnwc.edu/ils/vol97/iss1/44/>

Gershon Hasin, *Developing a Global Order for Space Resources: A Regime Evolution Approach*, 52 GEORGETOWN J. INT'L L. 77 (2020).

The article introduces the 'regime evolution approach' to the regulation of common resources under international law. The approach is grounded in the New Haven School of International Law. The 'regime evolution approach' provides a framework for anticipating and shaping the process of regime evolution *ex-ante*, rather than *ex-post*, and for facilitating the proposal of rules to sway policy-choices of participants towards an optimum global order. The article shows that present scholarship on outer space activities disregards the dynamics of international law making and applying, and offers a novel analysis of outer space regulation by focusing on the process of claims and counterclaims through which international law develops. Through a critical evaluation of the international rules in place as well as current and anticipated interactions between the relevant participants, the article

identifies the expected development of the regime governing outer space resources in four distinct stages.

<https://papers.ssrn.com/abstract=3847457>

WORKS IN PROGRESS

OUTER SPACE GOVERNANCE IN THE 21ST CENTURY: A MULTI-DISCIPLINARY PERSPECTIVE ON AN EVOLVING PUBLIC GOOD (Book Project)

As space activities increase and privatize, and become entwined in daily life, they are opening many opportunities for scientific as well as commercial gains. The book project takes a broad perspective and explores trends and future constructs of the governance of outer space, understood as a global public good, including such issues as financing, transboundary investment, international trade, environmental protection and sustainability, human rights, equitable resource distribution, protection of privacy, crisis management, safety and security, and climate change mitigation.

From 'Space Law' to 'Space Governance': A Policy-Oriented Perspective on International Law and Outer Space Activities (working paper).

Rapidly developing outer space activities combined with the resurgence of a competing system of public order led by China and Russia present scholars and policymakers with the complex intellectual task of shaping international rules to preserve the minimum order and promote the optimum order. Such a task requires a detachment from the formalistic application of rules in favor of contextual appreciation of the current and anticipated interactions between the various participants involved, accounting for their goals, interests, and points of leverage, in light of changing circumstances. Yet, as the article explains, where it comes to both descriptive and prescriptive analysis, predominant legal scholarship on space activities mistakenly approaches emerging claims and negative externalities through what may be described as 'rule-crunching' and 'regime transplantation', failing to appreciate the process through which international law is shaped, and overestimates the authority, comprehensiveness, and endurance of applicable norms, as well as their ability to shape policy-choices. This article proposes that at least for the foreseeable future, where it comes to international law, scholarship should detach from 'space law' in favor of 'space governance' and adopt a policy-oriented perspective focused on the international lawmaking process, accounting for the complexity stemming from the myriad of applicable regimes and competing systems of public order.

Rethinking Ocean Exclusivity: The Case of Human Rights (with Naama Omri) (working paper)

The sheer spatial extent of the high-seas and the limited ability to exert jurisdictional powers seaward have allowed perpetrators to evade the authority of interested powers while conducting unthinkable violations of human rights. A key element limiting the ability of interested participants to mitigate these adverse effects is the concept of 'exclusivity', which in principle confines the lawfulness of interventions by other participants to a limited

set of exclusions. But such governance promotes the optimum order only if the relevant State party is willing and able to prevent severe deprivations of human rights. As this article shows, that is not only a mistaken assumption but an inappropriate foundation for ocean governance in the 21st century. As the concept of sovereignty has undergone a process of evolution to impose limits on States' discretion in adversely affect others, ocean exclusivity must be confined to reduce, or even eliminate, the creation of negative externalities. Thus, as this article suggests, State exclusivity, whether over vessels or spatial areas, must retreat in the face of its unwillingness or inability to prevent or cure severe deprivations of human rights, in favor of inclusive powers.

A Theoretical and Legal Basis for Articulating Responsible Behavior in Outer Space Activities (with Saadia Pekkanen).

This article will introduce a realist framework through which to develop the concept of responsible behavior in outer space activities. We explore safety zones in outer space, exploitation of space resources, and space traffic management, as prisms through which to develop the concept of responsible behavior in outer space activities through policy-oriented jurisprudence and international relations theory.

Liability for Outer Space Activities: A U.S. and International Perspective (with Gabriel Swiney).

This project explores the potential of domestic and international regimes of liability to affect policy choices of participants in outer space activities to reduce international externalities. We demonstrate that the current international liability regime is ineffective as an instrument to affect policy-choices or to compensate injured parties. Given the limited feasibility of an immediate change on the international level, we suggest amending the U.S. domestic regime of liability as an instrument to promote space activities and effectuate change on the international level. We review the limits of current U.S. law and consider potential avenues such as a default rule for arbitration, standards of care, insurance, and torts.

Unfinished Self-Determination (with W. Michael Reisman).

The paper explores difficulties associated with self-determination in pluralistic systems, with specific reference to the Israeli-Palestinian conflict. The goal of this project is to propose avenues for decision-makers to identify and cope with these issues.

INTERNATIONAL LEGAL EXPERIENCE

International Law Jurist (2021 – Present)

- Representing the Republic of Colombia before the International Court of Justice in Law of the Sea disputes with the Republic of Nicaragua.

International Investment Arbitration Law Clerk to Prof. W. Michael Reisman (2016–Present)

Legal Assistant to Dr. Mahnoush H. Arsanjani (2016–Present)

Research Assistant to Professor Eyal Benvenisti (2013-2014)

OTHER LEGAL EXPERIENCE

Law Clerk, *Meitar Liquornik Geva Leshem Tal, Law Offices*, Israel (2014–2015)

Member, Criminal Justice Clinic, TAU Faculty of Law, Israel (2012–2013)

ADDITIONAL TEACHING EXPERIENCE

Israeli Defense Force, Military Intelligence, Unit 8200 (2005 – 2008 & 2011 – 2013)

Instructor and Lecturer

- Coordination and development of courses, instructional platforms and composing literature on computer networking.
- Taught extensive courses on computer networking and technical education.
- Certificate for Excellence in Performance of the Commander's Duties (2008).

CONFERENCES AND LECTURES

University of Washington, *Space Law, Data, and Policy: The Problem of Orbital Debris*, Invited Speaker, “International Landscape: Orbital Debris and the Outer Space Treaty” (February 2022).

Yale College, *Sovereignty and Socio-Economic Rights in International Law*, Invited Speaker, “Sovereignty in Space (Law)” (Spring 2022).

Yale Law School, *Public Order of the World Community*, Invited Speaker, “International Regulation of Outer Space Activities” (November 2021).

Tel-Aviv University, Faculty of Law, 6th TAU Workshop for Junior Scholars, Invited Presenter, “*Ocean Governance in the 21st Century: A New “Package-Deal” to Balance Mare Liberum and Mare Clausum*” (November 2021).

University of Washington, *Space Law and Policy*, Invited Speaker, “International Regulation of Outer Space Activities” (May 2021).

Society of International Economic Law, PEPA Conference, Hebrew University, Invited Article Commentator on the Law of the Sea (November 2020).

Yale Law School, *Public Order of the World Community*, Invited Speaker, “Outer Space Law” (Fall 2020).

Yale Cyber Forum, Invited Presenter, “Hacking into a Wifi Network” (March 2019).

LANGUAGES

English (fluent); Hebrew (fluent); Russian (fluent speaking).