



The Governance of Outer Space as a Territory beyond National Jurisdiction

Lecture delivered

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Origins of Territorial Jurisdictions

- > The Treaty of Westphalia (1648) amongst warring European principalities laid out negotiated territorial jurisdictions of self-defining nation states, *and their religio-linguistically affiliated citizens.*
- > Sparks of religio-linguistic antagonisms within and amongst the above -- and the instigated murder of an Archduke -- ignited WWI, the smouldering embers of which have now reignited in Ukraine, with another violent assertion of religio-linguistic territorial jurisdiction between Russia and Eastern Europe.
- > Post WWI, and the creation by U.S. President Woodrow Wilson of the League of Nations as an intra-European peace-keeper, European colonial powers transferred their antagonisms and rivalries into their colonial possessions -- particularly in Africa -- and divided the latter's natural-resources in arbitrary territorial jurisdictions, the violent religio-linguistic consequences of which arbitrariness are being witnessed even today.

Techno-military innovations of WWII forced changes to national jurisdictions extant from WWI...

> ... and, with the creation of the United Nations in 1945, together with progressive decolonisation, established the *locus standi* of ex-colonial countries in the governance of matters beyond their national jurisdictions *even if those issues did not directly affect them*;

>... while collective governance by the Trusteeship Council of the UN [innovated by anti-colonial U.S. President, Harry Truman] of the UN deprived the colonial powers of the excuse of lack of capability for self-governance in their smaller colonies.

Technologies from WWII enabled Reach-and-Control Beyond National Jurisdictions (BNJ)

> Aircraft carriers and submarines

-- which traverse ocean spaces outside any territorial jurisdictions.

> Ballistic Missiles

-- *which traverse airspace above national jurisdiction, and from which were derived....*

> Space Launch Vehicles

-- which place objects in (orbital) territory above national airspace.

The Cold War...

> ... congealed those technological enablers of Westphalian hegemonic control into instruments of coercion – particularly nuclear weapons (1945 >) – the effects of which coercion extend beyond the national jurisdictions of post-colonial countries;

> ... Blocs harnessed those enablers to construct totems of international prestige-hierarchies by, *inter alia*, devising exclusionary treaties (e.g. NPT) ; and by establishing autonomous technological presences in territories BND such as Space (e.g.s. Russia , France) and Antarctica (e.g. the U.K.)

'Space' is a *territory*, not a 'common heritage of mankind'

- > "Space" has existed from times immemorial. It was not created or inherited by, nor bequeathed to, humankind: It is, therefore, *not* a "common heritage of mankind".
- > "Space" is a *territory* Beyond National Jurisdiction(BNJ), where the natural laws of physics determine the dimensions and limits of its exploration and use by humans.
- > Given the baneful legacies of Westphalia and neo-colonial dominance, it behoves Bharat – nay, makes imperative that – she espouse doctrines of civilisational *just-ness* in the governance of that territory.

Precedent doctrines of a *Vishwa-mitra* for the Governance of Territories BNJ

When disdainfully ignored, or superciliously labeled by neo-colonial addicts of dominance as an “outlier” to the exclusionary Nuclear Treaties, India has practiced:

> For the NPT and the CTBT, the *Indra* doctrine :

“I have broken up countless treaties made on Earth, in the sky and further up in the heavens. But not a hair on my head was disturbed” [Indra in Aitherya Brahmana, Rg Veda, circa 1200 BCE]

> After our nuclear tests (1998) broke-up those treaties, this *Gita* doctrine (Gita VI-3) enunciated in a text laid by the PM in the *Lok Sabha*, guided our voluntary moratorium on further tests:

*“Action, it is said, is the means
To reach the heights of Yogic Strength
Once reached though, it is said again –
Restraint is the proper course”*

Dominance Addicts Try Again

> Unfazed by their experience of the *Indra* doctrine on our nuclear technology development (1974 N-test), addicts of post-colonial dominance cartelised access to Space (MTCR) in the very year (1987) that India launched her Advanced Satellite Launch Vehicle (ASLV).

> Unfazed again by the messaging from our tests of Ballistic Missile Defence (BMD) test vehicles (2011 and after), the addicts got together to fashion an NPT-type privileged regime for possession of ASAT weapons. Getting wind of this gang-up ...

The *Gita* and *Indra* doctrines

Respectively guided

> The restraint in a *non-destructive* proximity test – so as to obviate debris -- of an ASAT weapon in February 2019. Dominance addicts dismissed it as a “failed test”.

> So, the *Gita* doctrine also informed the shattering *Shakti* test in March 2019. It also informed India joining a U.S.-announced *voluntary* moratorium on DA-ASATs.

> But, in December 2022, *Indra* abstained from voting on the otherwise near-universal adoption of an U.S.-led UNGA Resolution on a moratorium (not a ban) on destructive DA-ASATs.

Bharat: From *Vishwamitra* to *Vishwa-guru*

- > Along with the steady erosion of their technological supremacy, the dominance-addicted P5 of the UNSC have *lost legitimacy* as self-appointed supervisors, let alone controllers, of state behaviour in even the post-colonial clients that they themselves created after two World Wars (e.g. in SE Europe, West Asia, Africa, East Asia) -- never mind in territories BNJ. **Consequently**
- > these dominance-addicts can no longer present their barely-concealed neocolonial behaviour as *fait accomplis*, much less precedent norms, for such territories BNJ as *Space*.
- > For the governance of *Space*, our *Gita* and *Indra* doctrines, so far applied by Bharat as *Vishwamitra*, should now be applied by her as *Vishwa-guru*, by norm-setting in, and by, such repurposed UN-bodies as its dormant *Trusteeship Council*.

The *Vishwa-guru* should Anoint these Precedents for Application to *Space* as a Territory BNJ

- > Perhaps sensing the wane of their power, the dominance-addicts appended their signatures to a recent (September 2023) International Convention on the preservation of “Biodiversity Beyond National Jurisdiction” (BBNJ) that is precedent-setting.
- > Even more astonishingly they earlier appended their signatures in 2014 to the Nagoya Protocol on Access to Genetic Resources that accepted *as a norm* the *fair and equitable sharing of BENEFITS ARISING FROM THEIR UTILIZATION* with those nations that did not themselves have the means or know-how to do so.