

Sharing the Benefits of Space: A Positive Conception of the Freedom of Outer Space

Timiebi Aganaba-Jeanty
Erin JC Arsenault Fellow, McGill University
31/05/14



Outline

- The legal right to space benefit sharing
- Political theory: two concepts of freedom
- What kind of freedom is Art 1 OST
- Conceptual framework to consider benefit sharing: Space Benefit Hierarchy
- Focus on access to geospatial data
- Conclusion



Article 1 OST: A Legal Right to Space Benefit Sharing

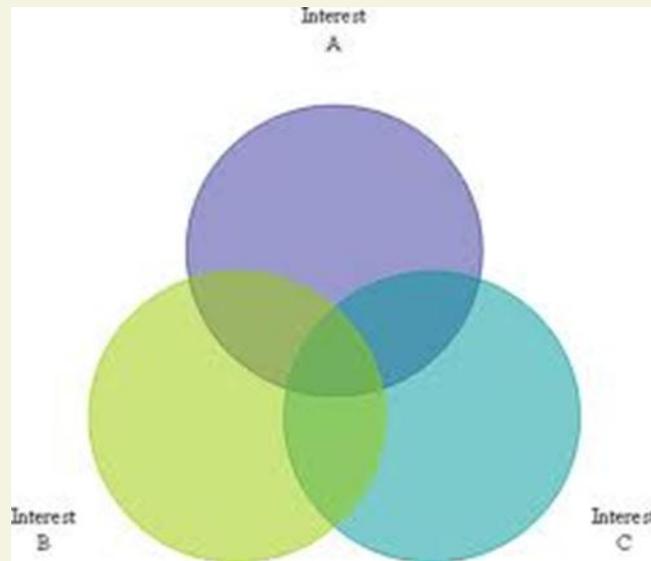
- Provides the legal basis for the sharing of the benefits of space exploration and use
- Interpreted to mean that States are bound to cooperate in space activities, I term this obligation **Space Benefit Sharing**
- Ideological debate about space benefit sharing remains despite the Space Benefits Declaration



Why Is It Important To Understand Article 1?

Grants the FREEDOM and OBJECTIVE for Space Exploration

COMMON INTEREST



COMMON BENEFIT



Two Concepts of Liberty (Freedom)



Isaiah Berlin
(1909-1997)

Berlin showed, negative and positive liberty are not merely two distinct kinds of liberty; they can be seen as rival, incompatible interpretations of a single political ideal

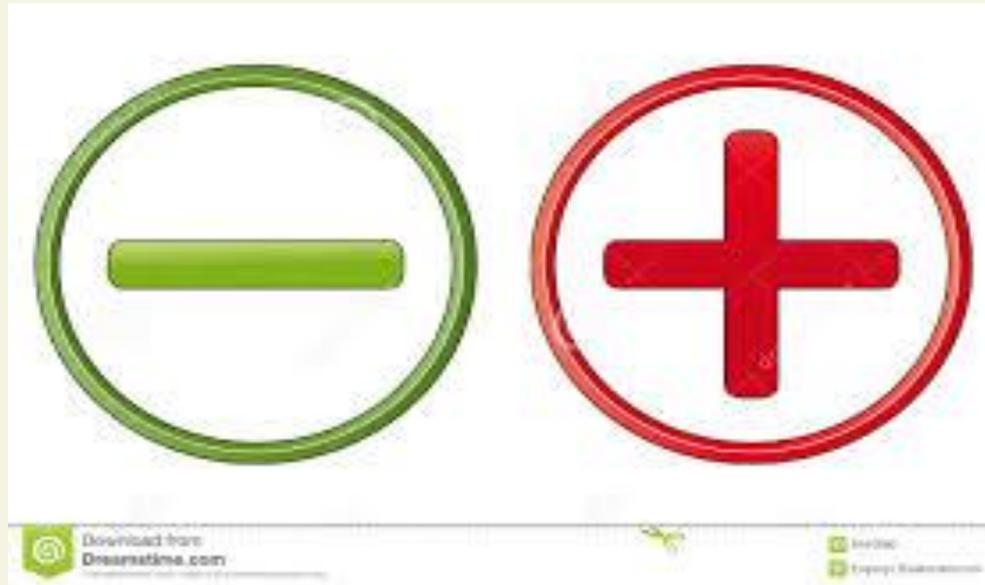


Free to do something but in a specific way.

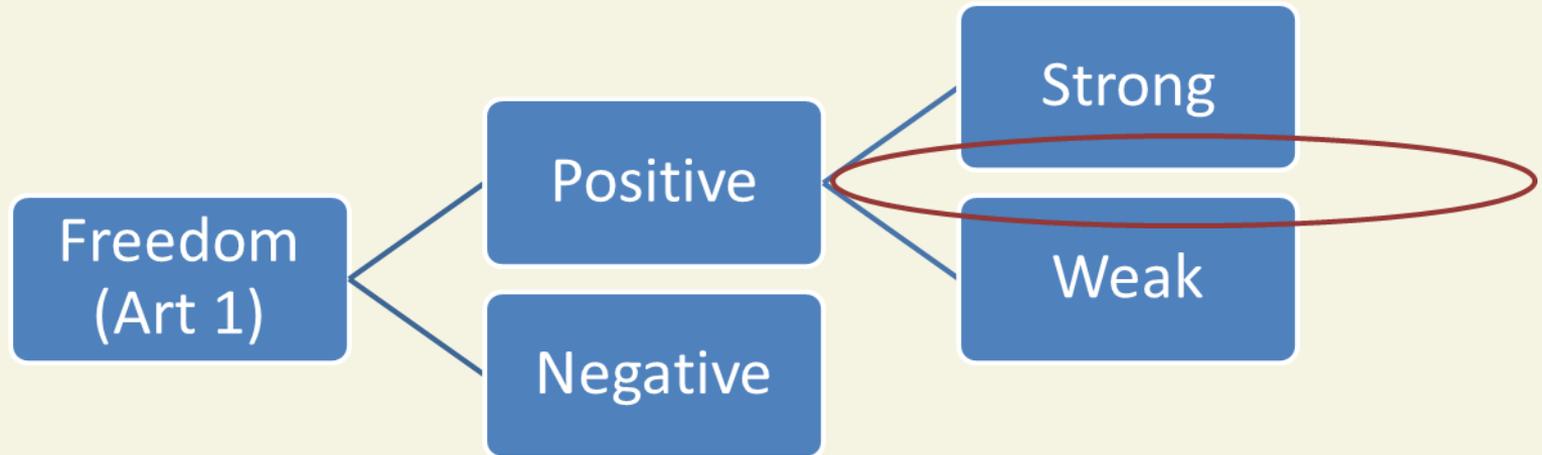
Freedom is subject to or limited by



Freedom of Outer Space for the Interest and Benefit of all Countries: A Negative or a Positive Conception of Freedom?



The Positive Conception is Strong or Weak

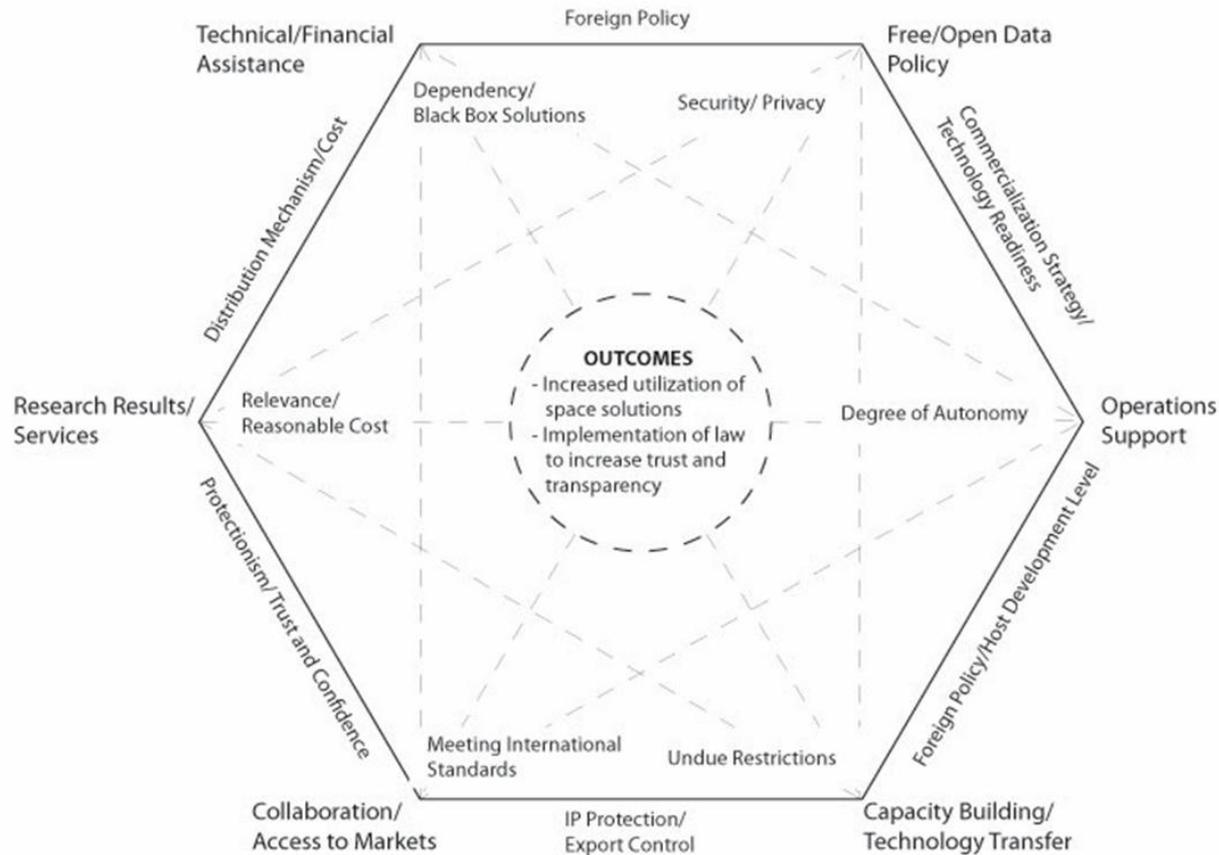


Finding the Middle Ground

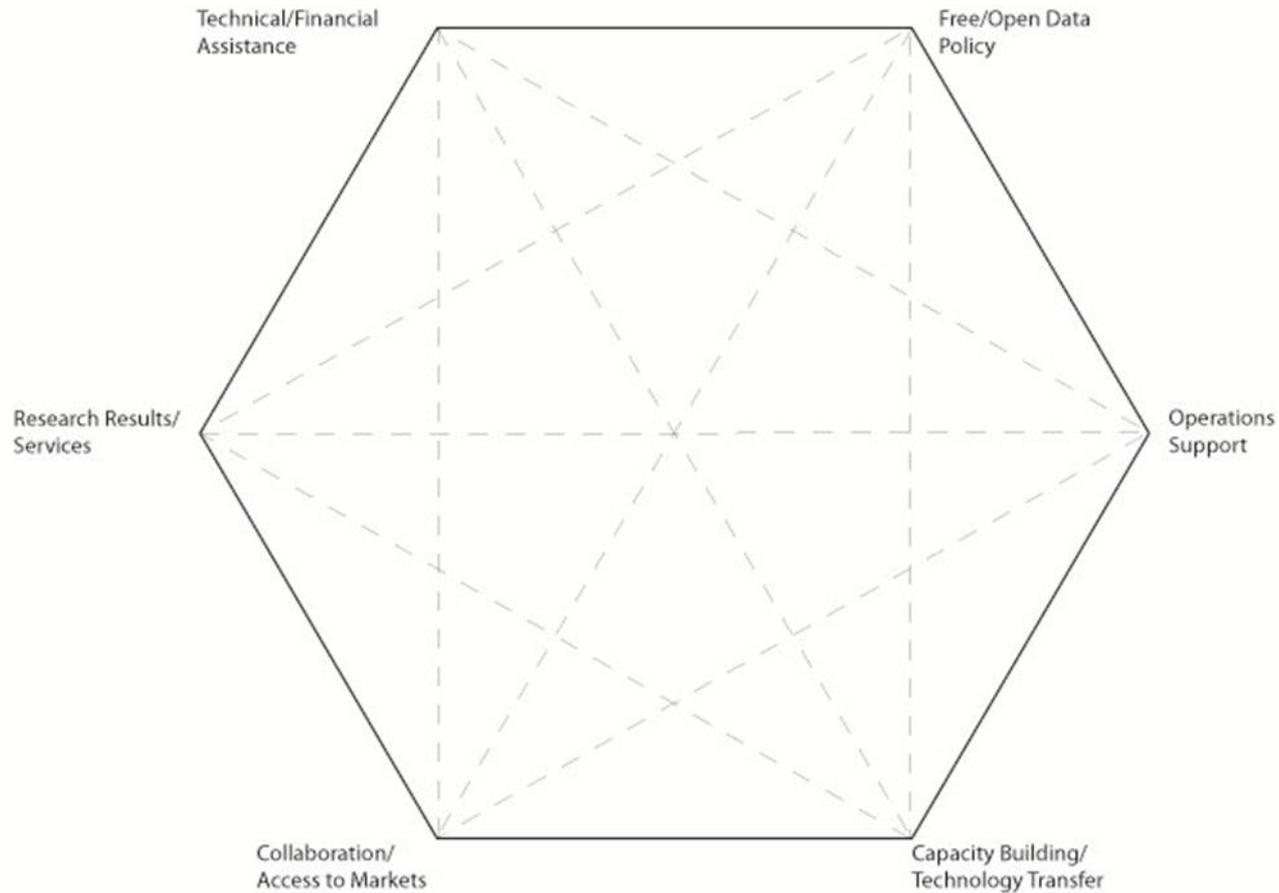
- Freedom as capability (Amartya Sen)
- Doesn't need to be for every space activity
 - Focus on ensuring that when activities are *declared* for benefit sharing the freedom as opportunities is “effectively available”
 - Declarations beget accountability and show good faith (Space Benefits Declaration e.g China)
- Need to determine a test for “effective availability”



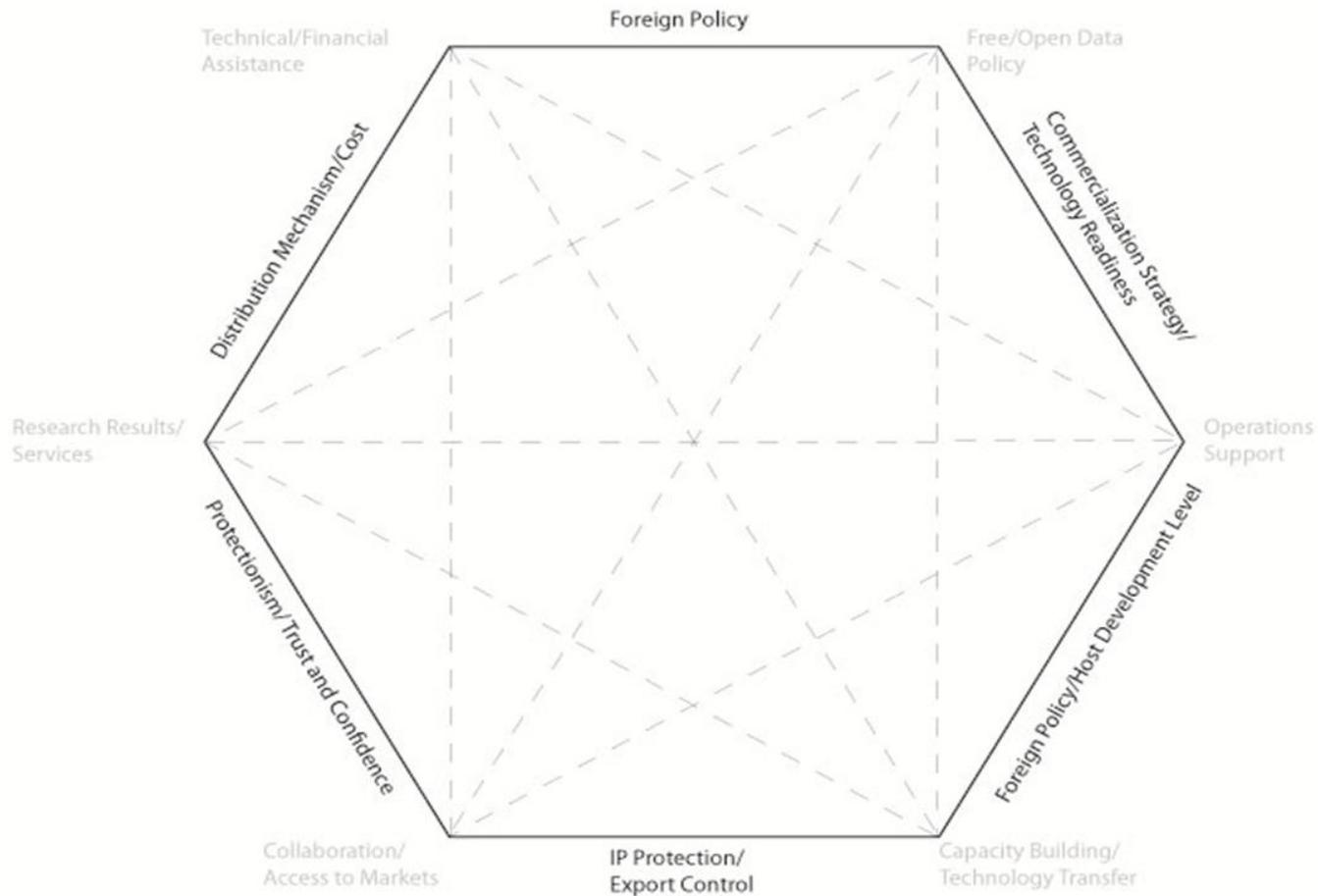
The Space Benefits Hierarchy Conceptual Framework



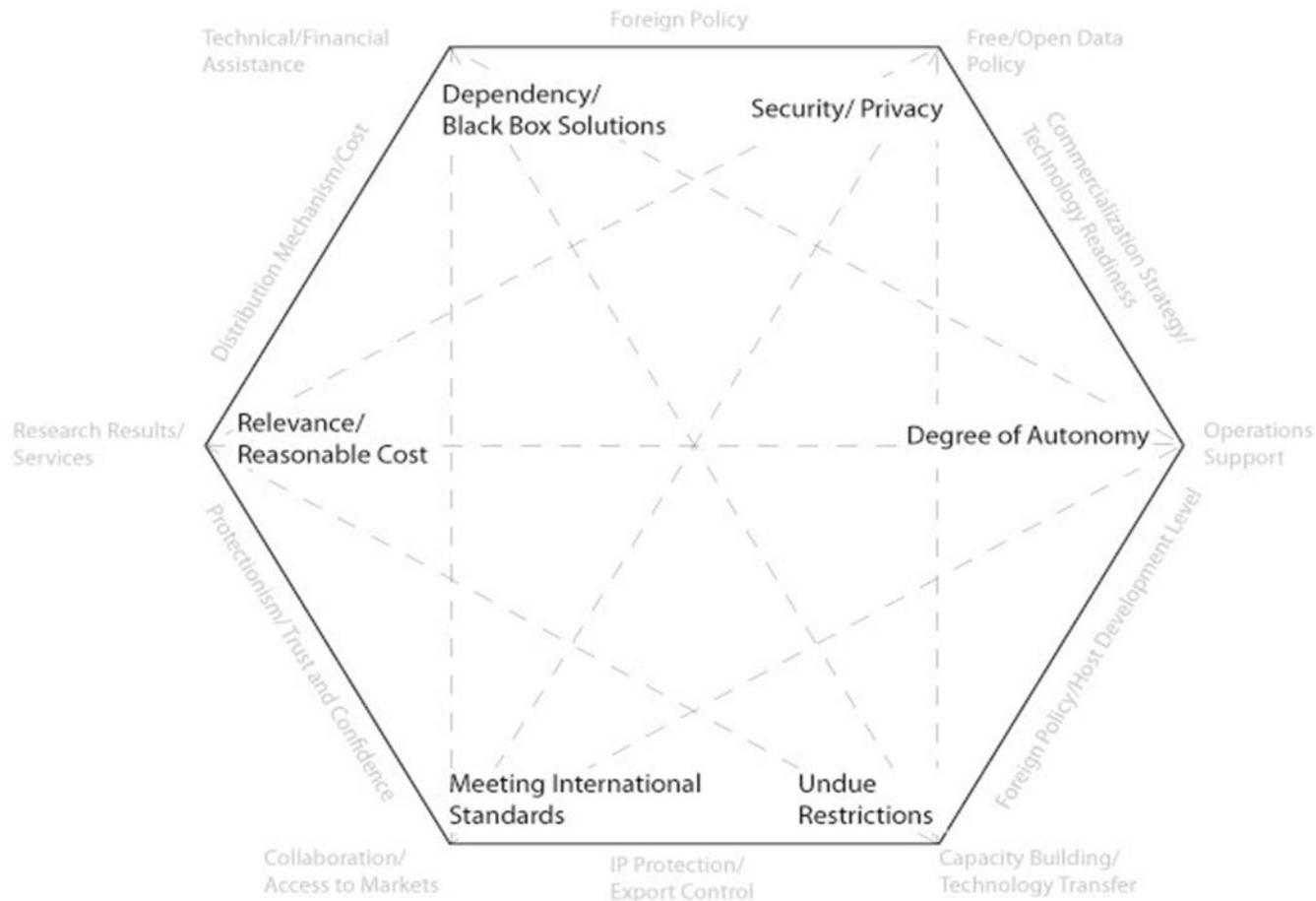
A Set of Activities



Inhibitors: Donor Issues



Considerations of the Recipient



Focus on Access to Geospatial Data: Is there “effective availability” of Geospatial Data for the Benefit of Emerging Nations?

- Test must consider :

What are the inhibitors to effective benefit sharing from the perspective of the donor

What are the considerations of the user/benefit recipient

Do proposed outcomes increase utilization of space solutions while increasing trust and transparency



Mapping Africa's Resources



Are there Lessons from Benefit Sharing Arrangements

- Benefit sharing within the context of the **common heritage of humankind** – Genesis of Benefit Sharing Regimes
- Benefit sharing in the context of the **access and use of genetic resources according to the Convention on Biological Diversity (CBD)** - The concept of benefit sharing here can be related to the ethical principle of justice in exchange or commutative justice. Justice in exchange demands that those who use resources give back due reward to the providers or custodians of the resources it has a separate binding agreement on benefit sharing (Nagoya Protocol)
- Benefit sharing and **international clinical research** - (UNESCO) Declaration on Human Genome and Human Rights (1997) “benefits from advances in biology, genetics and medicine, concerning the human genome, shall be made available to all
- Benefit Sharing Agreement’ is a general term to describe a written agreement that is the outcome of a consultation process about a proposed resource extraction, project or development that has the potential to **impact the Aboriginal rights or interests** of one or more Aboriginal groups in Canada.
- Community-Based Natural Resource Management,
- Payment for Ecosystem Services (PES)/Clean Development Mechanisms (**Market based to reduce emissions**)



Conclusions

- A middle ground variant to the positive conception of the freedom of outer space for the benefit and interest of all countries is necessary
- Sharing is a word that makes some people cringe
- Middle ground conception is focused on the end user beneficiaries perspectives while ensuring that conditions are fair for all
- Test for the middle ground is of “effective availability” of opportunity
- World Bank project is a great opportunity for space benefit sharing and requires a governance framework beyond current frameworks



Thanks!

timiebi@yahoo.com

timiebi.aganaba@mail.mcgill.ca

