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# **THE MILITARIZATION OF OUTER SPACE: CHALLENGES TO THE PEACEFUL USES PRINCIPLE**

- Shubh Agarwal<sup>1</sup>

Outer space is a global common as it is for the benefit of all the countries and is not owned by a single country. Space is an important asset for navigation and communication, for national security and defence, helps in disaster management and climate monitoring, benefiting humanity. Moreover, Outer Space Treaty (OST) of 1967 guarantees all the States the right to use and freely access space and other celestial bodies. It also provides that the moon and other celestial bodies shall be used by all the States for peaceful purpose.

In recent times, outer space is becoming a war-ground where the nations are trying to establish their supremacy by developing space-based weapons. For example, Russia's 2021 Direct-Ascent Anti-Satellite (DA-ASAT) test created a large amount of space debris that threatened the International Space Station. The militarization of outer space could lead to a new arms race and undermine international and national security, violating international laws.

## **LEGAL FRAMEWORKS**

### **• OUTER SPACE TREATY, 1967<sup>2</sup>**

Article I- It states that outer space shall be free for use and exploration by all the States, and this shall be done for the benefit and in the interests of all the countries. Outer space is not subject to national appropriation and there shall be free access of all celestial bodies to all the countries.

Article IV- This is also known as principle of “peaceful uses of space” which states that the moon and other celestial bodies shall be used by all the States for peaceful purpose. It prohibits the establishment of military camps, installations and testing of any weapons or any type of military

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<sup>2</sup> United Nations Office for Outer Space Affairs, *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies* (1967), <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html> (last visited Dec. 12, 2024).

exercise on celestial bodies. It also prohibits the States from keeping nuclear weapons or any other weapons of mass destruction in the orbit of the earth or in outer space.

### ● **PAROS RESOLUTION<sup>3</sup>**

Prevention of an Arms Race in Outer Space, a resolution by UN General Assembly, prevents the nations from placing objects with weapons in orbit and ensures the peaceful use of space.

### ● **MOON AGREEMENT, 1979<sup>4</sup>**

It extends the principle of OST to moon and other celestial bodies, allowing their use for peaceful purposes and prohibiting national and private ownership. It declares these bodies as the common heritage of mankind, mandating equitable sharing of benefits from their resources.

Though we have these legal frameworks to protect the militarization of outer space but still there are some gaps in these frameworks like there is lack of clarity on what constitutes “peaceful purposes” when there is dual use of technology, which can be used both for civilian benefits like exploration and climate monitoring and for military misuse as weapon. Moreover, there is no legal framework which provides for explicit use of conventional weapons in outer space. These gaps give stronger countries the chance to establish their control over outer space.

## **RECENT DEVELOPMENTS IN MILITARIZATION**

Militarization is different from weaponization. Weaponization refers to keeping or placing actual weapons in space whereas militarization refers to the use of space for military purposes e.g., for surveillance.

The development of Anti-Satellite (ASAT) weapons has raised concerns about the risk of global conflict. These are basically used to destroy or incapacitate satellites for tactical or strategic purposes. Their use in warfare could pose a widespread threat. These ASAT weapons have been developed by countries like United States (The Bold Orion), China in 2007, India in 2019 and Russia, which in 2021 destroyed the orbiting satellite by ASAT weapon. Further, the United States

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<sup>3</sup> Nuclear Threat Initiative, *Proposed Prevention of an Arms Race in Outer Space (PAROS) Treaty*, <https://www.nti.org/education-center/treaties-and-regimes/proposed-prevention-arms-race-space-paros-treaty/> (last visited Dec. 12, 2024).

<sup>4</sup> United Nations Office for Outer Space Affairs, *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies*, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/intromoon-agreement.html> (last visited Dec. 12, 2024).

has established the space force named as USSF (United States Space Force) in 2020 as sixth branch of U.S. armed force. The mission of the same is to protect the U.S. interests in space and to deter aggression. Other countries like China (The People's Liberation Army Aerospace Force) and Russia (The Russian Aerospace Forces) have also established their space forces.

Moreover, with the growing technological advancement, countries are now moving towards the development of dual use satellites, which can be used both for civilian and military purposes. For example, GPS satellites are used for civilian purposes like surveying land resources and environmental monitoring but can also be used for military purposes. Recent example of such satellites can be seen in Russia-Ukraine conflict where SpaceX Starlink played a critical role in military communications.

## **CHALLENGES TO THE PEACEFUL USES PRINCIPLE**

OST and other related treaties demand the States cooperation as they rely on voluntarily compliance from the side of all countries and do not impose any sanctions, penalties, or reparations on violators for violations of the laws. Unlike other treaties, it does not establish a centralized enforcement body to monitor and to adjudicate disputes. The technological advancements like that of dual use satellites have made the terms like “peaceful purposes” and “non-aggressive use” ambiguous, which allows states to justify potentially militaristic actions, such as deploying satellites or testing anti-satellite weapons, as lawful under the treaty.

Nations leading in this run like U.S., China and Russia are unlikely to accept enforcement mechanisms that constrain their strategic interests. Moreover, the geopolitical rivalries between States have added more fuel to this race e.g., U.S.- China competition.

## **IMPLICATIONS FOR INTERNATIONAL LAW AND SECURITY**

Militarization goes against the idea of global commons and space as shared resource for humanity as the control of space after the militarization will shift to the hands of only some of the countries like U.S., China and Russia and then space will not be available for other countries for exploration and use. This undermines the OST's objectives, highlighting the need for updates.

Increasing military competition in space will increase the chances of conflict and wars among the countries which in turn will lead to damage to outer space in the form of increasing orbital debris and will also increase the chances of damage to moon and other celestial bodies through weapons like ASAT weapons.

## **WAY FORWARD**

First and foremost, the change that is needed is strengthening of the legal framework. There is a need for a binding treaty that explicitly prohibits the use and placement of conventional weapons in outer space. Secondly, there is need of having vivid and enhanced definitions of the terms like “peaceful purposes” and “military activities” so that there remains no place for ambiguity. Thirdly, there is a need for more transparency where any State involved in any kind of space-related activity should open that up all the information related to their activity for the rest of the world and there should be mandatory international registry for such space-based military activities. Fourthly, there is a need for some organization which can adjudicate the cases related to violation of space laws and penalize the wrong doer, this can be done by strengthening the mechanism of COPUOS (UN Committee on the Peaceful Uses of Outer Space) and giving more power to it. Fifthly, we should develop guidelines to tackle the technological advancements like dual use satellites and to allow the responsible use of the same. Lastly, integrating principles from the Long-Term Sustainability of Outer Space Activities Guidelines, adopted by COPUOS in 2019, some of which are preservation of the outer space environment, capacity-building for new space actors for developing nations to ensure equitable participation in space governance, strengthening national and international policies, safety of space operations and others.

## **CONCLUSION**

There is an urgent need to preserve the outer space as a domain for peaceful purpose as the race between some countries to establish their supremacy is making outer space a battlefield, by militarizing and weaponizing it. To control such activities and have a common ownership of outer space, there is a need to update international laws to address the new threats. Additionally, there is a need for collective global action to ensure that outer space remains free from conflict and militarization. There is a need for cooperation among all countries as space is a shared heritage and that its militarization could have irreversible effects on global stability and humanity’s future.