

Unearthing Outer Space through Anthro-legal Perspectives

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Context

- Humanity's first venture into outer space was born after two world wars and amidst an ongoing cold war.
- Space was primarily explored for prestige and show of space capabilities, including military capabilities.
- Circumstances gave rise to the need of regulating outer space – emerged the 1967 Outer Space Treaty.

Relevance of Outer Space Treaty

- Contrary to popular belief and sensationalism – 1967 Outer Space Treaty is *not* outdated and remains relevant, perhaps more than ever, in this re-birth of the new space age.
- 1967 Outer Space Treaty is a well articulated product of the then prevailing circumstance and perhaps a product of lessons we learnt as humanity.
- *Visionary Treaty* – it captured to mitigate the blind race and very narrow anthropocentric (human-centric) ends that humanity keeps running after while missing the bigger picture or broader perspectives.
- *Hyperboles* - suggest Outer Space Treaty is an outdated instrument of governance.
- We must be very conscious of the fact that we don't start treading the ways and create circumstances which drafters of the Outer Space Treaty specifically and intentionally wanted to *encapsulate only to deflate*.

Challenges

- Challenge I – Race to Space Resources
- Challenge II – Theatrics of the Inevitable Space War
- Challenge III – Unilateral State Actions
- Challenge IV – Anthropocentric Value Paradigm

Challenge I – Race to Space Resources

- Bigger problem is the lack of clearer understanding of what the law, as in the Outer Space Treaty, says.
- Common misconception – **Outer Space is the Province of All Mankind.**
- Saying that, wrongly affixes a spatial and special status to the outer space – common heritage of mankind or the global commons – impliedly mean – outer space as **something-waiting-to-be-exploited.**

Challenge I – Race to Space Resources

- It is the use and exploration of outer space – *the activity* – which is the province of all mankind.
- Outer space – vacuum and the celestial bodies - has no status in terms of ownership! It is devoid of the very concept of ownership.
- How can the universe or solar system in its entirety be owned, even if collectively, by human beings? Disturbingly anthropocentric!!

Challenge I – Race to Space Resources

- Physical space that is devoid of the concept of ownership of any kind, cannot be commercially exploited.
- Race to space resources increasingly reluctant to be governed by the Outer Space Treaty (or the Moon Agreement) in hope for taking advantage of legal loop hole or unlikely new international legal instrument.
- Hope for new legal instrument - Specifically to do what the drafters of the Outer Space Treaty wanted to avoid – **a race to resources and appropriation.**

Challenge I – Race to Space Resources

- This exact race, in recent human history, was at the center of a dark era drenched, acceptedly, in looting of resources and violation of basic human dignity, which till today reeks our global society of the unresolvable disparity.
- Are we heading to the same path, in a technologically upscaled way to a new frontier – outer space?

Challenge I – Race to Space Resources

- Moon Agreement – does ascribe the status of Common Heritage of Mankind to the Moon, and prescribes to set up an international regime and procedures to govern such exploitation when it becomes practicable. However, Moon Agreement has received very limited membership so far.

Challenge II – Theatrics of the Inevitable Space War

- Hyperboles – romanticizing a space war. In reality, today, what is the conflict of interest in space that justifies the hype on *space war* and the suggestion that it is inevitable?
- Space has for the last 60 years has been largely free of conflict. We are witnessing a typical case of - Herz's Security Dilemma where –

*actions by a state intended to heighten its security, such as increasing its military strength, committing to use weapons or making alliances, can lead other states to respond with similar measures, producing increased tensions that create conflict, **even when no side really desires it.**¹*

- The growing affinity to the narrative and possibility of a space war is disturbing. An orbital war would **adversely affect global economy, severely degrade access to space and space applications.** Keeping in view the UN Charter and the Outer Space Treaty – **the narrative needs to be fine tuned to - that the war is evitable and must be avoided at all costs.**

Challenge II – Theatrics of the Inevitable Space War

- McGill initiated project to draft a Manual on International Law Applicable to Military Uses of Outer Space (MILAMOS) aims to clarify the *lex lata* rules during peacetime, with the hope that our efforts aid towards conflict-avoidance and promote peaceful cooperation in outer space.



Challenge III – Unilateral State Actions

- Stem of the above two challenges – race to space resource and theatrics of the inevitable space war.
- When a State decides to act in self-interest contrary to preserving the spirit of Outer Space Treaty - which prescribes to act in the interest of all countries and humankind.
- Unilateral actions are very alarming - a path to eventually push a biased view/outcome onto to the international community and hoping it to become internationally accepted as a State practice.

Challenge IV – Anthropocentric Value Paradigm

- We have deeply internalized a flawed - anthropocentric (human-centric) value system which places humankind at the dominant position in the natural world, with natural resources existing only to serve humankind. This is the dominant *Weltanschauung* – the world view
- Today, on Earth, we have brought upon ourselves the geological epoch of Anthropocene – where human beings are recognized as a geophysical force now acting brutally against the nature bringing changes of not local, regional or global but **planetary scale**.

Challenge IV - Anthropocentric Value Paradigm

- Humanity internalized with an anthropocentric value system, is headed to outer space in full throttle, and it would not be surprising to theorize an onset of space-based threats to humanity triggered by us humans.
- We can already see an example of anthropocentric environmental problem in outer space relating to space debris.
- It would be ideal to explore if a change of this value system from anthropocentrism to ecocentrism or cosmocentrism, where we place intrinsic value in nature and understand that the Earth and the cosmos are complex sensitive symbiotic systems which respond to introduced fluctuations.

Conclusion

- We need to **un-Earth** the outer space by **detaching our narrow anthropocentric race to resources or conflict-ridden use of outer space.**
- **We must attempt to preserve the true spirit, even if beyond the bounds of international space law, of space for the common interest and benefit of all humankind.**



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Thank you.

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LL.M. Thesis: [Theorizing Cosmic Environmental Law](#)

TEDxTalk: [Outer Space Environment - The New Frontier for Law and Ethics](#)