



The Space Race and the Evolution of Space Law

With the Soviet Union's launch of Sputnik, the first artificial earth satellite in 1957, a new era dawned in the history of humanity. It meant a great leap in man's efforts to understand the universe but it also fuelled an already brewing rivalry between the two super powers of that time. It is often considered to be the catalyst for the beginning of the 'Space Race' between the US and the USSR which led them to launch a number of satellites, space programs, men into space and significantly advance space technology.

The emergence of the space age created the need for a new branch of international law while exposing the problem with the legal regime that existed in outer space. The legal regime in space defines to what extent the states may use outer space for military operations and the degree to which state sovereignty extends into space. A realization soon dawned upon the academics across the world regarding that the current rules governing international air law were no longer sufficient for the governance of spacecrafts, as the

trajectory of spacecrafts in orbit would breach international air law and the sovereignty of countries, a principle based on the Roman law maxim *Cujus est solum, eius est usque ad coelum et ad inferos* ("for whoever owns the soil, it is theirs up to Heaven and down to Hell") and the modern understanding that the sovereignty of nations vertically extends over the terrestrial boundaries of every country (as set out in the Warsaw Convention of 1929). The countries could no longer extend the boundaries of their dominion indefinitely into the space regions above them.

In 1959 a permanent Outer Space Committee was formed for the purpose of maintaining the United Nations Charter and other international law in space, which opened the way for peaceful exploration of the space, followed by a nuclear test ban treaty in 1963.

However a need for a uniform set of rules governing the space was soon felt which led to the culmination of the Outer Space Treaty in 1967. It was ratified by 63 participants in the United Nations. The treaty enabled agreement on a number of important issues. First, that the agreed principles would

News at a Glance

- Al Jazeera submitted a formal request to the International Criminal Court to open an investigation into the killing of Palestinian-American journalist Shireen Abu Akleh. It is suspected that Abu Akleh was shot and killed by Israeli officers during an exchange with Palestinians. For more information, see [here](#).
- The New Zealand Prime Minister delivered an apology to Māori tribe for past violations of the Treaty of Waitangi. The Treaty of Waitangi was signed in 1840 and is an agreement between the Crown and Māori chiefs "to protect Māori culture and to enable Māori to continue to live in New Zealand as Māori," while giving the Crown the right to govern New Zealand. For more information, see [here](#).
- UN High Commissioner for Human Rights, Volker Türk, condemned military courts in Myanmar for handing out over 130 death sentences in proceedings not accessible to the public. Seven college students were sentenced to death on 30th November 2022, and the UN is working to confirm four additional death sentences against youth activists. For more information, see [here](#).



take the form of a legally binding treaty instead of just a General Assembly resolution, secondly, that at least celestial bodies would be used exclusively for peaceful purposes, thirdly that no nuclear weapons or any weapons of mass destruction would be stationed anywhere in outer space, fourthly that there would be no race for colonies in outer space, and fifthly that all contracting States would assume direct State responsibility for national activities in space, protect the environment and pay for any damage caused.

The Treaty met some of the deepest concerns and aspirations of the world at the time and proved to be a remarkable instrument for providing a legal framework for the exploration of outer space and the development of space law.

Space Debris and State Accountability

The Inter – Agency Space Debris Coordination Committee issued Space Mitigations Guidelines containing set of non-binding guidelines for space agencies, definition of space debris is that space debris are all man-made objects including fragments and

elements thereof, in Earth orbit or re-entering the atmosphere, that are non-functional.

European Space Agency estimates, that currently there are around 34.000 objects greater than 10 cm, around 900.000 objects from greater than 1 cm to 10 cm and around 128.000.000 objects greater than 1 mm to 1 cm. The international space law, which was being developed during the 1st Space Race, was established before international community recognized space debris to be the major problem. When the first space debris mitigation guidelines were being released, there were already tons of space junk orbiting the Earth, and the space debris issue is an issue that grows exponentially. This cascade effect is called the 'Kessler syndrome'.

Between 1967 and 1984, five treaties entered into force. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies of 1967 ; Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space of 1968 – The Rescue Agreement, Convention on International Liability for Damage Caused by Space Objects of 1972 –

News at a Glance

- The International Court of Justice delivered its judgment in a waterway dispute between Chile and Bolivia. The case is formally referred to as the Dispute over the Status and Use of the Waters of the Silala, a river which is shared by both Chile and Bolivia. The Court found that the Silala River is governed by international law, meaning Bolivia cannot assert complete control over the waterway. For more information, see [here](#).
- The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission released a joint report clarifying the extent of equality and human rights protected under the Ireland-Northern Ireland Protocol. The report comes as a legal challenge to the Protocol and has reached the UK Supreme Court. The Ireland-Northern Ireland Protocol was negotiated between the UK government and the European Union with the intention of ensuring the continuance of free trade across the Irish border as the UK left the EU. Legal experts are concerned that the UK government's most recent Northern Ireland Protocol Bill clashes with Article 2 of the Protocol. For more information, see [here](#) and [here](#).



The Liability Convention, Convention on Registration of Objects Launched into Outer Space of 1976 – The Registration Convention, [Agreement Governing the Activities of States on the Moon and Other Celestial Bodies of 1984 – The Moon Agreement.](#)

The Outer Space Treaty Provisions Related to the Space Debris Issue:

Keeping space debris in the outer space can be also treated as a form of appropriation, which is forbidden under article II of the Outer Space Treaty. All activities should be conducted with due regard to the corresponding interests of all other States Parties to the Treaty. The liability for damages is regulated by article VII of the Outer Space Treaty and the Liability Convention. Article VII states, that each State Party to the Treaty that launches or procures the launching of an object into outer space, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or to its natural or juridical

persons by such object or its component parts on the Earth, in air or in outer space. The customary status of these Outer Space Treaty provision, along with the interests of international community as a whole as protected value and with near universal scope, are proof of their status as obligations erga omnes.

Erga Omnes Obligations and their Consequences on Space Debris Remediation and Removal:

Obligations can be bilateral, interdependent, erga omnes partes and [erga omnes](#). Obligations erga omnes partes are said to be obligations binding on a group of states established in a common interests, where performance of an obligation by specific subject isn't connected to the performance of the equivalent obligations by the other members of such group. Finally, obligations erga omnes are obligations owed by one legal subject to "the international community as a whole. The legal norms contained in provisions of the Outer Space Treaty, especially article I, II, VII and IX acquired status of obligations erga omnes. They were established in order to protect values common to the international community as a whole to protect the access and usability of outer space for current and future generations.

[News at a Glance](#)

- European Commission President, Ursula von der Leyen, announced a series of options to hold Russia accountable for its war crimes in Ukraine. 14 commission member States have already initiated investigations into international war crimes committed by Russia. The commission supports these investigations and the investigation by the International Criminal Court. However, Russia does not currently accept the jurisdiction of the ICC. For more information, see [here](#).

[Upcoming Activities](#)

1. Call for Papers: Entanglements in Refugee and Migration Law, Celebrating Forty Years of the Nordic Asylum Law Seminar

The Nordic Asylum Law Seminar is an international conference for scholars, practitioners, and civil society. The conference is open to papers covering issues in international refugee and migration law in the Nordic region and beyond. This year, the conference takes a specific focus on the intersections, or entanglement, between refugee and migration law and other fields of international, regional, and national law. For more information, see [here](#).



The erga omnes status of international obligations contained in provisions of the Outer Space Treaty, along with the possibility of invoking the state responsibility by even non injured State and with the third-party countermeasures can constitute the legal tools for States to properly react to any misconduct happening in the outer space.

The Artemis Mission: Dawn of Human Civilisation on the Moon?

A new phase in lunar exploration that aims to take people further than ever into space is the NASA-led Artemis mission. The programme develops the know-how for a long-term return to the Moon. It is an international collaboration headed by NASA, with contributions from the European Space Agency (ESA), the Canadian Space Agency (CSA), and the Japan Aerospace Exploration Agency, as well as the participation of several companies. The initiative also establishes a crucial framework for deep-space travel to farther-off places like Mars.

Similar to the Apollo programme, which began more than 50 years ago, Artemis will start with lunar orbital flights before moving on to lunar landing missions. The Artemis mission involves building the Lunar Gateway space station in lunar orbit in addition to crewed and uncrewed missions. NASA will set down the first woman and the first person of colour on the lunar surface thanks to the Artemis missions. Astronauts would use the Human Landing System to transit from the Lunar Gateway to the Artemis Base Camp in accordance with existing plans, which are intended to enable human presence on and around the lunar surface. The intricate Artemis missions will provide the groundwork for long-term manned and robotic study of the Moon, Earth's only naturally occurring satellite.

Planned missions currently include: The Space Launch System (SLS) rocket which launched Artemis I, an unmanned test flight of the Orion spacecraft, on 16 November, 2022; Artemis II, the first-ever crewed test flight of the Orion spacecraft, is scheduled to launch on the SLS rocket no later than May 2024; Artemis III, which will carry astronauts to the Moon, is currently scheduled to launch no earlier than 2025. Humans might be brought to the moon's surface by the expedition.

Upcoming Activities

2. Call for Papers: Centra Journal of International Studies

Interested authors from all social sciences and humanities are invited to submit their perspectives on the diverse range of phenomena situated under the general theme of this first edition: Latin American Cooperation in the 21st Century - Actors, Challenges, Threats and Proposals. Contributions dealing with other topics are also welcome. Contributions should be submitted by 30th January, 2023. For more information, see [here](#).

3. Histories of International Law: Chinese and Global Perspectives Lecture Series.

The series is co-organized by the Centre of Chinese and Comparative Law of Hong Kong City University with Wuhan Law School and Fudan Law School. The first lecture, "China and the Turn to National Histories of International Law," will be held on 16th December, 2022. For more information, see [here](#).



The Lunar Gateway serves as a staging area for both robotic and human lunar missions during long-term operations. Longer lunar missions will be possible thanks to the orbiting base, as well as maybe more than one journey during an Artemis mission. The operating structure for the Gateway-to-surface is comparable to how a human Mars trip may be planned, with the option for some crew members to stay in orbit and others to travel to the surface. Before the first human expeditions to Mars, it is essential to gather experience with this technology on the Moon.

Report of the Weekly Session

A session was recently conducted by the Centre for International Law on the topic Who owns the sea? It was conducted by Rasika Acharya and Devansh Bhatt. The session mainly dealt with the territorial jurisdiction of nations over the sea, how they conduct business and environmental activities inside their territories and what happens in the cases which involve the question of jurisdiction over the territorial

boundaries of the sea. An introduction to the UNCLOS that is, The United Nations Convention on Law of the Sea, was also a part of the session. Certain case laws were cited and discussed which were dealt with in the International Court of Justice concerning the law of the sea. The names of the cases were as follows -

- Anglo Norwegian Fisheries case
- Wildenhus's case
- State Vs Yannopulous
- Re Martinez Case 1959
- I am Alone Case (1935) (Canada vs USA)
- North Sea Continental Shelf Case (1969)

An informative short video to understand the basic structure of the law of the sea was also a part of the session. (<https://youtu.be/V6JIOAllfNg>)

*Write to us at
centerforinternationallaw@ilslaw.in for
requests or suggestions.*

Upcoming Activities

4. Call for Papers: American Review of International Arbitration at Columbia Law School

The American Review of International Arbitration at Columbia Law School is soliciting manuscripts of Articles and Notes for publication in Volume 34, no. 2 (winter 2023) – Special Issue: Russian-Ukraine War. They welcome Articles by scholars, practitioners, and other professionals, as well as Notes by law students, with especial encouragement for authors from communities traditionally underrepresented in international arbitration scholarship and practice. For more information, see [here](#).

5. Workshop for Young Researchers: Migrations, Rule of Law, and European Values.

This is hosted by the University of Salerno. Interested young researchers are invited to send, by 15th February, 2023, an abstract written in Italian or in English, alongwith a CV. Proposals will be selected by the Scientific Committee. The selection will be conducted on the basis of the relevance to the themes of the call, the originality, and the diversity of the subjects. For more information, see [here](#) and [here](#).