

LAWFOYER INTERNATIONAL
JOURNAL OF DOCTRINAL LEGAL
RESEARCH

(ISSN: 2583-7753)

Volume 2 | Issue 3

2024

© 2024 *LawFoyer International Journal of Doctrinal Legal Research*

Follow this and additional research works at: www.lijdlr.com
Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of **any suggestions or complaints**, kindly contact info.lijdlr@gmail.com

To submit your Manuscript for Publication in the **LawFoyer International Journal of Doctrinal Legal Research**, To submit your Manuscript [Click here](#)

THE STATUS QUO OF SOVEREIGNTY IN SPACE EXPLORATION

Shivam Kumar Gupta¹ & Dr. Preeti Singh²

I. ABSTRACT

Everyone is constantly curious about outer space. We can track space travel back to prehistoric times. From historical to modern individuals are known to be fascinated by the motions and activity of the planets and stars for life journey predictions. Thus, these celestial bodies in space have had a significant impact on life predictions. The exploration of space has gained impetus in recent decades. Even space exploration is of great interest to private players. The goal of space exploration is to benefit humanity, and this is being pursued by government, public-private, and private initiatives.

The question of sovereignty in space or over celestial bodies comes up in light of these advancements in space activity. Humans have visited the moon thus far. The story of the first man landing on the moon is widely known. The act of setting foot on the moon also calls into question who should have sovereignty over the celestial bodies in space. The authors of the paper researched the subject of celestial body sovereignty and attempted to determine its current state. To understand sovereignty, the authors have researched international space law treaties. Sovereignty is a critical issue in space law, so it is important to understand its status quo. The doctrinal analysis of secondary texts that are in the public domain led to the creation of this paper.

II. KEYWORDS

Outer Space, Celestial bodies, Mankind, Space Exploration, and Sovereignty.

¹ School of Law, Bennett University

² School of Law, Bennett University

III. INTRODUCTION

The rapidly evolving world is venturing into uncharted territory, and in the process, the space industry has gained prominence in recent decades. The involvement of private entities has intensified efforts to explore space. The world needs growth and diversification in every field, and sustainable development must be a part of it. Following this course, we have witnessed the emergence of the Outer Space Treaties with an increase in space exploration activity since 1960. Both the public and private sectors have a plethora of opportunities and avenues in outer space. Whether the idea of sovereignty applies to celestial bodies in outer space is an issue that emerges in this approach. The authors of this paper conducted a study on the prospect of countries claiming sovereignty over the moon or celestial bodies.

IV. CONCEPT OF SOVEREIGNTY

Sovereignty is a crucial component of the country's formation, along with its population, territory, and government. We must comprehend the idea of sovereignty to proceed with this part of the paper. According to the Cambridge dictionary³ sovereignty means 'the power of a country to control its government'. To establish authority over that area of land, the nation needs to have some degree of control over it. Sovereignty means that states are free to handle their internal affairs without interference from other states⁴. In the Space Race, every country wants to establish supremacy in space exploration, in this, the issue of appropriation and sovereignty arises. When a nation is exploring a particular celestial body, a situation can arise, when the state is controlling that part, in that the issue of sovereignty can be dealt with. The answers to this issue can be taken from the international space law treaty and agreements framework.

³Meaning of sovereignty in English, <<https://dictionary.cambridge.org/dictionary/english/sovereignty>>, accessed 23 August 2024

⁴Overview, sovereignty, Oxford Reference, <<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100520397>> accessed 09 September 2024

V. CURRENT INTERNATIONAL TREATIES ON SPACE LAW

The domain of Outer Space is shared by all. We must comprehend the current treaty framework to comprehend the structure of international space law. The framework for international space law is currently being worked out by five treaties.⁵ The United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) is in charge of overseeing all of these treaties. These five agreements are:-

- **‘Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies’⁶-1967-** The Outer Space Treaty- The treaty contributed to the creation of the basic framework for outer space activity. Additionally, this treaty stated that space exploration should serve the interests of humankind. All people should be able to explore space. In outer space, no state should be able to exercise sovereignty.
- **‘Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space’⁷-1968-** The Rescue Agreement- This agreement deals with the concerns regarding the astronauts' safe return to Earth's surface when the person begins traveling to the moon and beyond. This agreement recognizes the value of benefits to all people. The nations must cooperate for the good of the world without any national prejudices. All necessary actions must be taken by the signatories to ensure the safety and return of the astronauts in need.

⁵ Space Foundation Editorial Team, ‘International Space Law, Space Foundation’ <https://www.spacefoundation.org/space_brief/international-space-law/#:~:text=There%20is%20no%20claim%20for,be%20used%20for%20peaceful%20purposes> accessed 23 August 2024

⁶ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, Adopted by the General Assembly in its resolution 2222 (XXI), opened for signature on 27 January 1967, entered into force on 10 October 1967, United Nations Office for Outer Space Affairs <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introouterspacetreaty.html>> accessed 23 August 2024

⁷ Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, Adopted by the General Assembly in its resolution 2345 (XXII), opened for signature on 22 April 1968, entered into force on 3 December 1968, United Nations Office for Outer Space Affairs <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/rescueagreement.html>> accessed 24 August 2024

- **‘Convention on International Liability for Damage Caused by Space Objects’⁸**- 1972- The Liability Convention- Liability must be taken into account whenever a spaceship ventures into outer space and an accident or damage occurs. According to this convention, the states launching spacecraft or objects are obligated to assume obligation for any damages. The framework for settling claims in the context of liability is provided by this convention.
- **‘Convention on Registration of Objects Launched into Outer Space’⁹**- 1976- The Registration Convention- The Spacecraft must be registered in accordance with the Registration Convention. Registration is important for tracking space operations and verifying their goals. The countries involved in the space mission will be bound by the spacecraft registration, which will also include mission specifics.
- **‘Agreement Governing the Activities of States on the Moon and Other Celestial Bodies’¹⁰**- 1984- The Moon Agreement- The significance of the celestial bodies and their security are emphasized by this agreement. States should not be contaminating this outer space with their space programme and actions. Contamination and hazards may result from lunar mining also. The state needs to operate in harmony and recognize that space resources are a shared resource for all people. When exploring the moon and other celestial bodies, cooperation is required in the promotion of exploration. Everyone has

⁸ Convention on International Liability for Damage Caused by Space Objects, Adopted by the General Assembly in its resolution 2777 (XXVI), opened for signature on 29 March 1972, entered into force on 1 September 1972, United Nations Office for Outer Space Affairs <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introliability-convention.html>> accessed 24 August 2024

⁹ Convention on Registration of Objects Launched into Outer Space, Adopted by the General Assembly in its resolution 3235 (XXIX), opened for signature on 14 January 1975, entered into force on 15 September 1976, United Nations Office for Outer Space Affairs <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/registration-convention.html>> accessed 25 August 2024

¹⁰ Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, Adopted by the General Assembly in its resolution 34/68, opened for signature on 18 December 1979, entered into force on 11 July 1984, United Nations Office for Outer Space Affairs <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/moon-agreement.html>> accessed 25 August 2024

a responsibility to stop anything that could lead to a global dispute over the moon.

The goal of these five agreements is to establish a foundation for international space law. These treaties also deal with the concern of sovereignty.

VI. SPACE LAW AND SOVEREIGNTY

The United Nations was established to promote harmony and peace on a global scale. Through treaties and agreements, the UN has always aimed to foster international cooperation. The nations were worried about the increase in space operations and the potential threat to international harmony posed by the sovereignty question as they pursued space research. The United Nations has taken action in this area with the adoption of Resolution 2222 (XXI) by the General Assembly, which established the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.¹¹

The purpose of this treaty was to allow humankind to explore outer space. Next, the treaty established peaceful means to counterbalance the shared interest in continuing space exploration. The goal of this treaty was to create international cooperation in the field of scientific and legal exploration, with the requirement that outer space be used exclusively for peaceful purposes. The nations' relationships throughout these exploration efforts need to be stronger, and the growth of space operations needs to be based on mutual understanding and collaboration. It is easy to understand the concept of sovereignty from the treaty's articles.

Article 1¹² of The Outer Space Treaty discusses the development and exploration of outer space activities and must take into account the welfare of humankind. The

¹¹ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, Adopted by the General Assembly in its resolution 2222 (XXI), opened for signature on 27 January 1967, entered into force on 10 October 1967 <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html#:~:text=Outer%20space%2C%20including%20the%20moon%20and%20other%20celestial%20bodies%2C%20is,%20by%20any%20other%20means>> accessed 26 August 2024

¹² Article I- 'The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

interests and advantages of every country must be taken into account during outer space exploration. The treaty discusses mutual benefits, one state cannot be the exclusive authority over any celestial body. As we know the Law of Sea, in that the high seas belong to the whole of mankind. Under the law of the sea, everyone has access to the high seas. The celestial bodies are also for the whole of mankind. There should be free access for every nation, and even this treaty highlights the importance of celestial bodies as they belong to all mankind.

Article 2¹³ of The Outer Space Treaty, which asserts unequivocally that no state may assert authority over the moon or other celestial bodies in outer space by any means, makes this idea very evident. Outer space cannot be confined to any one country and is instead open to all for the benefit of humankind as a whole since the treaty expressly states that the state is not permitted to claim any sovereignty. As sovereignty does not belong to a single state, in the present scenario, public and private entities pursuing space exploration must be regulated. States now have the option of using a licensing system to impose national regulations on space activity¹⁴ or states must come forward for the global updated treaty for global space regulations.

Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the moon and other celestial bodies, and States shall facilitate and encourage international co-operation in such investigation'.

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (The Outer Space Treaty) <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html#:~:text=Outer%20space%2C%20including%20the%20moon%20and%20other%20celestial%20bodies%2C%20is,or%20by%20any%20other%20means>> accessed 26 August 2024

¹³ Article II- 'Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means'.

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (The Outer Space Treaty) <<https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html#:~:text=Outer%20space%2C%20including%20the%20moon%20and%20other%20celestial%20bodies%2C%20is,or%20by%20any%20other%20means>> accessed 27 August 2024

¹⁴ Frans G. von der Dunk, Sovereignty Versus Space - Public Law and Private Launch in the Asian Context, (2001), University of Nebraska - Lincoln <<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1000&context=spacelaw>> accessed 28 August 2024

VII. SUGGESTIONS

1. **New regulations for private players-** The number of space exploration projects has grown over the past few decades; thus, new rules (like licensing system rules, liability rules, environment impact assessment rules, etc.) are required to keep commercial space exploration companies under control. Since space exploration requires new start-ups at a rapid rate, it is even more important to create a check and balance system for these activities. The process of creating profits is what the profit-producing entities are interested in. Before focusing solely on earnings, the corporation must take into account ethical, moral, and environmental factors in this process. These all can be imposed through new regulations made by the competent authority.
2. **The New Outer Space Treaty-** New dynamic developments are occurring, yet the Outer Space Treaty has not been amended. Emerging fields such as space tourism, space insurance, space mining, etc. require specialized attention from the appropriate authorities. It is urgently necessary to draft a new space treaty or amend the existing one. The demand for change is greater now because of the dynamic shifts and evolution.
3. **Dispute settlement mechanism-** The development in space activities will lead to a surge in dispute cases involving several aspects, including sovereignty issues. To address the issue in this regard, a centrally designated authority for space needs to be established. Although the United Nations has organisations for handling international disputes and emergencies, it would be more beneficial to have an independent and distinct international judicial system.
4. **Sovereignty Issue-** In the future, even outer space must remain unappropriated by any country. Everyone must have equal access to outer space without exception. The nations must abstain from using force or engaging in military operations in space. The peaceful exploration of outer space by the nations ought to be promoted. Encouraging and promoting the drafting of national legislation is necessary to establish checks and balances on space exploration activities. If space exploration entities are discovered

engaging in illicit activities or impeding the opportunities for exploration by other countries, the state ought to take severe measures against them.

VIII. CONCLUSION

Everyone is aware of the significance of space exploration. Regarding space exploration, the United Nations has signed treaties and agreements. Outer space exploration is a need of the hour, and this outer space sector has limitless opportunities to explore. We need to inspire every country to get involved and discover the uncharted territories of outer space. There are celestial bodies and outer space activities outside of our planet that the world needs to know about. In this path, Sovereignty disputes may come up during space exploration. The Outer Space Treaty framework states that all of humanity owns space, and no one is allowed to assert sovereignty over it, the moon, or any other celestial body. Currently, every country needs a robust international framework to enable peaceful space exploration, and in the event of a conflict, a regulatory structure must be in place. Outer Space must be accessible to everyone and is the property of all humankind, as stated unequivocally by all space treaties.