Is the Outer Space Treaty Ready for SpaceX?

Exploring the Outer Space Treaty in the age of private space exploration

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Space is no longer the exclusive theatre of nations. In the recent years, we have seen companies such as SpaceX, Blue Origin, and Rocket Lab launching their own rockets, deploying satellites and even planning their own missions to Mars. The Outer Space Treaty of 1967 was drafted to govern state activity in space, so what then happens when billionaires and large conglomerates send spacecraft into orbit with minimal oversight? In this article, we will be exploring whether the treaty alone is ready for this newfound era of private exploration.

The Outer Space Treaty was signed in 1967 and it forms the very foundation of international space law. They key principles are:

- Space belongs to all of mankind; it **cannot** ever be claimed by a single nation under any circumstance. It belongs to every human and should remain free for every human.
- The acts of deploying military bases or systems of weapons of mass destruction are **illegal.** These include radiological, biological and chemical weapons.
- The activities we undertake in space have to be for the benefit of all countries, and citizens. And the states and nations are responsible for all activities, including those of private actors.

We have seen the treaty be successful in its prohibition in outright territorial claims, as well as large scale militarisation. However, this was written at a time when the private actors we see today were not major players.

As per law, private companies operate under the authority of their home nations, but the Outer Space Treaty primarily binds nations and not the corporations directly. Unfortunately, this can create potential gaps in policy and governance. These gaps could be from ownership claims; while national claims ae forbidden it is not written that private companies cannot exploit resources from natural satellites, the Moon or planets such as Mars. Other gaps are ones we are seeing right now such as satellite

megaconstellations. Companies such as SpaceX are deploying thousands of satellites rapidly and naturally this raises questions about orbital management and long-term sustainability. Of course, other gaps are more dire such as militarisation risks. While most satellites are seemingly harmless such as for internet usage, they could also easily be used for surveillance, advantages in battlefield strategy or even hold offensive capabilities. All of these directly challenge the premise of peaceful usage.

That being said, critiquing policy gaps does not mean ignoring technological achievements, these companies *have* accelerated innovation in space. SpaceX has created reusable rockets which has reduced cost and improved environmental impacts per launch. Starlink and other satellite constellations have also improved global connectivity. Mars exploration planning has also inspired international interest in the concepts of deep-space missions.

However, the Outer Space Treaty has provided an incredibly strong ethical framework, but it lacks the mechanisms needed to enforce modern-day compliance amongst private actors. Some of these pressing challenges include actual enforcement for private entities, national oversight into such acts varies and could potentially be quite weak. Another challenge is the environmental and orbital management; with the growth and fast deployment in satellite megaconstellations, debris and collisions will escalate rapidly. Another pressing challenge is commercialisation and resource exploitation. Just like here on Earth, monopolisation is a threat to a free space and it runs a real risk of de facto control. Alongside such a large increase in commercialisation, the need for complementary regulations and frameworks is emphasised, especially to ensure complete transparency, ethics and for the benefit of the people.

As private companies continue to expand their presence in orbit as well as beyond, we have to move from looking at the challenges as a technical one to a regulatory one. The future of space **will** depend on whether governance can evolve alongside it, and as rapidly as the industry itself.

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