

**The United States and the Privatization of Celestial Bodies under  
the Outer Space Treaty 1967**

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**Received:** November 17, 2023

**Accepted:** November 28, 2023

**Published:** December 31, 2023

**Article url:** <https://ejournal.iainkerinci.ac.id/index.php/cspj/issue/archive>

**Abstract**

Every country has an equal right to conduct space exploration, both in the development of science and technology and in the utilization of space resources for the survival needs on Earth. Space is the most challenging region to reach as it requires significant time and costs for exploration. This research aims to assist in the regulation of the 1967 Outer Space Treaty regarding the United States' efforts to explore and privatize planets and moons. The research uses a qualitative descriptive method based on applicable international laws and treaty articles. The findings indicate that the United States has launched policies supporting the development of private space industries, yet there are legal considerations to be addressed, including the Outer Space Treaty, applicable in the context of privatizing planets and moons. The efforts made by the United States in privatizing planets and moons, in line with the 1967 Outer Space Treaty, raise various legal, ethical, and policy questions. The treaty defines international laws governing the use of outer space, including planets and moons.

**Keywords:** *privatization, United States, Outer Space Treaty, international law*

## Introduction

Space is a region beyond Earth's atmosphere that penetrates into various other components. Space serves as the home to many celestial bodies such as planets, satellites, stars, asteroids, and others. This area is challenging to reach, requiring considerable time and cost for exploration. Therefore, anything related to space can still be considered contemporary. The background for the emergence of the idea for countries to create agreements or laws regulating outer space is the effort by several countries worldwide to explore outer space. The Soviet Union, for example, launched the Sputnik satellite in October 1957 (U.S. Department of State, 2009). Not only did the Soviet Union send inanimate objects like satellites into space, but they also sent the first human into space. Yuri Gagarin became the first human successfully launched into space by the Soviet Union in 1961 (Saputra, 2017).

With technological advancements, the activities of countries in space exploration have rapidly expanded into various endeavors such as monitoring traversed regions, searching for land and sea natural resources, live radio and television broadcasts, telephone communication, determining ship locations, meteorology, observation, and various other experiments.

Initially, space exploration activities were monopolized by the United States and the Soviet Union due to their technological capabilities. However, space exploration activities are now also conducted by other countries, either individually or collaboratively through international cooperation.

Considering that space exploration is a significant undertaking involving several countries, the existence of binding laws that regulate countries in space exploration is necessary. Similarly, other regions on Earth, such as oceans and land, airspace, and outer space, have legal statuses governing ownership and other matters. With various space exploration experiments, countries worldwide seek to establish agreements or laws regulating ownership and rules for space exploration to prevent undesirable actions such as exploitation and espionage (Anis & Voges, 2021).

The establishment of international law governing outer space and other celestial bodies began with bilateral negotiations between the United States and the Soviet Union. Subsequent discussions regarding outer space were held in the United Nations General Assembly (UNGA), an international organization composed of nearly all countries globally responsible for collectively forming agreements or laws regulating outer space and celestial bodies.

On December 13, 1958, the General Assembly formed the Ad Hoc Committee on The Peaceful Uses of Outer Space (UN Resolution, 1958), and a year later established the Committee on The Peaceful Uses of Outer Space on December 12, 1959 (UN Resolution, 1959). In 1961, the year Yuri Gagarin launched his spacecraft,

the General Assembly on December 20, 1961, adopted the first substantive resolution proclaiming the principle of freedom of outer space (UN General Assembly Resolution (XVI) International Cooperation in the Peaceful Uses of Outer Space, 1961).

Two years later, in 1963, the General Assembly adopted the Declaration of Principles Governing the Activities of States in the Exploration and Use of Outer Space (Declaration of Principles Governing the Activities of States in the Exploration and Use of Outer Space) (UN Resolution (XVII), 1963). Finally, from the previous resolutions, the Outer Space Treaty of 1967 was born in January 1967. This Space Treaty regulates the status of outer space by each country and establishes provisions for the peaceful use of outer space (Dimitri & Sudiarta, 2016). This is done to prevent undesirable events, such as massive exploitation and unilateral claims by a country or group. The Space Treaty regulates the status of outer space, the moon, and other celestial bodies, as well as human efforts and activities in outer space, setting out the rights and obligations of states (Dimitri & Sudiarta, 2016).

The treaty, formally known as the “Treaty on Principles Concerning The Activity of State in The Exploration and Use of Outer Space, Including The Moon and Other Celestial Bodies,” is recognized as the fundamental law in the field of Space Law (Marthinus, 1994). This treaty was signed simultaneously in London, Moscow, and Washington on January 27, 1967, and came into effect on October 10, 1967. The treaty contains principles governing activities in outer space. There are two main principles regulating activities in outer space: the non-appropriation principle and the freedom of exploitation principle.

The first principle asserts that outer space and other celestial bodies are the common heritage of humanity. This means that outer space and other celestial bodies, such as stars and planets, cannot be claimed as the property of any country, group, or individual for any reason. This principle is explicitly stated in the Outer Space Declaration of 1963 and later confirmed in Article II of the Outer Space Treaty on January 2, 1967 (Boer Maulana, 2001), which states:

“Outer space, including the Moon and other celestial bodies, shall not be subject to national appropriation by any means, including sovereignty declaration, use, or occupation, or by any other means.”

The second principle states that outer space is a zone free for use by all countries for peaceful purposes. This means that every country has the freedom to explore space with intentions and objectives that do not cause conflict or threaten the security of other nations. The freedom to explore outer space granted does not imply that countries engaging in space activities can act anarchically, and the Outer Space Treaty restricts that freedom (Boer Maulana, 2001).

Firstly, space activities must comply with international law, including the UN Charter. Secondly, space activities must be conducted with peaceful intentions to maintain international peace and security. The third limitation, as stated in Article 1, paragraph 1 of the Outer Space Treaty, reads:

“Exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interest of all countries, irrespective of their economic or scientific development level; such activities shall be the province of all mankind” (Boer Maulana, 2001).

## Methods

In conducting this comprehensive study, a methodological approach rooted in descriptive research has been adopted, wherein a combination of two distinct data collection methods has been strategically employed. The first of these methods involves an in-depth document-based analysis, delving into relevant literature, reports, and records to gather a comprehensive dataset. Concurrently, the study leverages the power of internet-based analysis, harnessing the vast expanse of online resources to supplement and enrich the gathered information. Furthermore, the analytical framework of this research is inherently qualitative, and the subsequent examination of the amassed data employs qualitative data analysis method. Specifically, the study employs the technique of secondary analysis, which involves a nuanced and meticulous reevaluation of existing data sets. Through this method, the research aims to extract deeper insights, uncover patterns, and discern underlying themes that may not be immediately apparent through primary analysis alone.

## Discussion

### Claims of Ownership of the Moon and Celestial Bodies

Throughout its journey, many countries and even individuals worldwide have claimed and declared ownership of celestial bodies and the moon in outer space. This has been happening since humans successfully sent satellites into space and even reached the moon's surface. The potential ownership of astronomical objects has existed since the beginning of space exploration in the Cold War era (BBC.com, 2019). In 1948, a book author named James Thomas Mangan claimed rights to the universe and everything in it. In 1953, a young man named Gajardo accused the U.S. of crossing borders by sending humans, namely Neil Armstrong and Buzz Aldrin, to the moon, which he considered his territory, and brought the matter to court (Halidi, 2020). Several claims, such as the one made in 1948 by James Thomas Mangan, demonstrate that anyone, whether an individual, group, or country, can at any time claim and assert that celestial bodies or the moon in outer space are part of their dominion and ownership. Many influential countries and

individuals in the world view the moon as land that can be sold at a high price and explored to extract its resources, such as gold, silver, and other minerals. Russia has plans to establish their first human colony on the moon by 2030. Japan, a technological powerhouse, has also signed an agreement to create a solar panel ring that will orbit the moon to generate energy for them (Merdeka.com, 2014).

However, a few years ago, space exploration plans with competing claims of ownership over the moon and other celestial bodies did not raise many concerns. If countries continue to compete to land humans on the moon and explore other celestial bodies, it is not impossible that this could trigger conflicts and tensions between nations that could lead to World War III. Given the dangers that could arise from privatization efforts to claim ownership of the moon and other planets, it is clear that rules or regulations are needed to clearly define the rights of exploration or ownership of land on the moon and other planets. There are some rules that bind and regulate the right to explore the moon and other planets, such as the Moon Agreement or the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies in 1979 ratified by the United Nations. However, the planned signatories to this agreement are only 16 countries worldwide. If we look at the Outer Space Treaty of 1967, the regulations governing land or moon ownership and celestial bodies are outlined in its principles. If countries base their exploration activities on these principles, the current practice of mutual claims will not occur.

### **The United States and the Privatization of Outer Space**

The United States is a country with significant ambitions to explore outer space. Since the 1960s, the United States has initiated its space exploration activities by sending satellites and even humans to the moon. However, this seems insufficient for the Uncle Sam's nation. Looking back, the process leading to the creation of the Outer Space Treaty in 1967 was dominated by two major countries, the United States and the Soviet Union. The concept of the Outer Space Treaty was formulated or designed by these two nations, later approved by the United Nations General Assembly, and subsequently signed by six UN member countries on January 27, 1967 (Sudiarta, 2016).

In April 2020, the United States, through President Donald Trump, signed an executive order for the U.S. to mine the moon and other planets to obtain resources (Utomo, 2020). The order stated that the United States is preparing to send humans to the Moon and Mars. The U.S. will also engage in commercial exploration, recovery, and utilization of space resources. The United States ensures that no one can obstruct the international rules it establishes itself.

Efforts to take over outer space and aggressive plans to genuinely seize territories on other planets do not lead countries toward mutually beneficial collaboration (Dmitry Peskov, 2020). Meanwhile, the principles governing space

exploration activities clearly state that all space activities are carried out through international cooperation for mutual interests. Plans for space exploration by placing humans on the Moon and Mars have long been heard. High-tech countries are competing to become the first to send humans to live on the Moon and Mars. However, this is considered not to violate the principles of space exploration based on the 1967 Outer Space Treaty, as long as it is based on peaceful goals and advancement in science and technology together.

What the United States is doing through the executive statement issued by Donald Trump is considered to violate the agreed-upon principles. Because the United States clearly establishes provisions for the ownership of the Moon and certain planets. The privatization efforts to be undertaken by the United States receive a lot of support from other countries, especially those actively engaged in space exploration, such as Russia. Not without reason, Russia criticizes what the United States is about to do. The privatization efforts by the United States clearly violate the ratified principles of outer space. In addition to the United States, Russia is one of the countries that often conducts space exploration, so it is reasonable for them to voice their opposition (Suara.com, 2020).

### **The Ambitions of the United States**

Every country fundamentally has national interests it aims to achieve. All policies issued by a government are intended to fulfill the national interests of that country. The national interests of a country cannot be equated with those of another because each country has its own goals and interests. The national interests of each country, which are always different from one another on planet Earth, also have an influence on space utilization activities (Marthinus, 1994). When looked at collectively, the national interests of countries worldwide are dominated by economic interests. Particularly for developing countries, their focus is on economic progress and the welfare of their nation. However, for advanced countries with high technology, the national interests are much more complex than those of developing nations.

Advanced countries such as the United States and Russia no longer focus their national interests solely on economic advancement. For example, the United States competes with other large and advanced nations to extend its influence globally. The United States aims to expand its hegemonic influence and maintain its status as a superpower with advancements in science and technology. This is evident from several policies issued by the United States, such as recognizing Jerusalem as the capital of Israel, legalizing LGBT and same-sex marriage, and the recent plan to send humans to live on the moon and mine lunar resources.

## Implications of the Legal Privatization of Outer Space Objects

The privatization efforts undertaken by the United States in outer space have violated principles established in jointly ratified agreements and treaties. To understand the legal implications related to the privatization of planets and moons in outer space by the United States, it can be analyzed through the regulations of the Outer Space Treaty 1967.

### a. Article II Space Treaty 1967 (Prohibition of space and celestial bodies' ownership)

“Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use to occupation, or by any other means” (Nations, 2002).

Based on the Space Treaty 1967, outlined in Article II, it explains that the moon and other celestial bodies cannot be claimed as the property of any country, group, or others. It is not permissible for anyone on Earth to declare the moon and other celestial bodies as part of their sovereignty. Therefore, it is clear that the actions planned by the United States to mine and claim the moon and planets as its own violate the outer space agreement in Article II.

### b. Preamble and Article IV Space Treaty 1967 (Use of space and celestial bodies only for peaceful purposes)

“States Parties to the Treaty undertake not to place in orbit around the Earth any object carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner. The Moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations, and fortifications, the testing of any type of weapons, and the conduct of military maneuvers on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for the peaceful exploration of the Moon and other celestial bodies shall also not be prohibited” (Nations, 2002).

The above Article IV of the Outer Space Treaty 1967 explains that countries exploring outer space, including the moon and other celestial bodies, must be based on peaceful purposes. It is not allowed for any country to use nuclear weapons or weapons of mass destruction in outer space. Conducting exploration activities that provoke conflict with other countries is also not permitted based on this agreement. Therefore, the United States' plan to privatize the moon and other planets in outer space, which may lead to tension with other countries, constitutes a violation of the Outer Space Treaty 1967 in Article IV.

## Conclusion

The increasing interest of private companies in space exploration highlights the need for a legal framework to regulate these activities. The legal and practical implications of the Outer Space Treaty 1967 for the privatization of planets and moons by the United States are examined to identify potential impacts on the future of space exploration. The privatization of planets and moons by the United States under the Outer Space Treaty 1967 is significant because it has implications for the future of space exploration and the potential exploitation of natural resources in space. While the Outer Space Treaty 1967 provides a legal framework for the privatization of planets and moons by the United States, its practical implications are complex and require further exploration.

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