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FREEDOM THROUGH REGULATION: ADVANCING GLOBAL GOVERNANCE IN OUTER SPACE.

Abstract

Space has been recognised as a domain dedicated to the common interests of Mankind. As with all “commons”, space is now facing its own “tragedy”: inherently dangerous, space has become increasingly inhospitable as a result of the unregulated activities of States. Overpopulated with technologically outdated satellites and resulting disproportionately increasing numbers of space debris, space, albeit naturally limitless, is rapidly shrinking. Overarching service providing interests and continuous technological developments also take a toll on the availability of navigable, near Earth, outer space. While these interests are undoubtedly legally guaranteed, as different aspects of the freedoms of use and exploration, the truth of the matter remains: in an individualistic pursuit of their own rights, States have collectively neglected the need to preserve space for the benefit of Mankind as a whole in a condition allowing for sustainable, long-term use, exploration and exploitation.

A potential solution to addressing this problem for future generations, as well as trying to mitigate the consequences of previous irresponsible conduct, is the creation of an international, intergovernmental organisation, mandated with exercising overall jurisdiction over near Earth outer space. While States would still maintain their rights recognised in the Outer Space Treaty, the purpose of this organisation would be to regulate primarily the freedom of movement in outer space, by promulgating binding instrument on its members.

The purpose of the proposed paper is to explore the modalities under which the creation and functioning of such an international organisation could take place. The legal framework allowing for States to willingly give up part of their rights and freedom in space, as well as the constitutive elements permitting for absolutely binding decisions from the part of the organisation will form the core of this analysis. The result: an omnipotent, independent organisation, specifically addressing the complicated jurisdictional environment of outer space through the exercise of global governance