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CAN INTERNATIONAL LAW PROVIDE A BASIS FOR ACTIVELY REMOVING SPACE DEBRIS?

Abstract

With over 500,000 objects in orbit, space pollution has now become a scientific, legal, and ethical issue and raises concerns on what the international community can do through existing 'hard law' and the development of 'soft law' to help tackle the problem. The purpose of this paper is to examine whether the application of the evolutionary principle of treaty interpretation to the Outer Space Treaty enables for active removal of space debris in a manner consistent with space governance and acceptable to private corporations and States. Active Debris Removal (ADR) has only been used in specific circumstances which successfully removed an object. International law has hindered the process of mass removal of space debris as objects cannot be removed without the consent of the relevant State. Therefore, this paper will consider whether customary international law and current state practice in analogous areas of international law would allow or could develop so as to allow the removal of an object from space without the need for consent of the launching State. Such an application will form a rigorous approach and introduction of space governance through an international multinational space agency approach for mutual agreement and cooperation without the need for an international treaty or political declaration. Such a principle, although not a new concept in areas such as international environmental law would be new for international space law. However, as new and innovative activities are planned for the future under the umbrella of the Outer Space Treaty, and by extension general international law, it is wise to take a new and innovative approach to space law. Moreover, this paper aims at using maritime, environmental and international rules of responsibility to argue that the removal of particular objects in outer space does not need consent. This will be backed by an evolutionary approach to the interpretation of the Outer Space Treaty. This paper will make a unique and forward looking legal and governance argument that will not only test the use of international law but also science, technology and political will.