CHAPTER VI

LEGAL REGULATION OF OUTER SPACE MILITARY ACTIVITIES;

CONCLUSIONS AND RECOMMENDATIONS
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LEGAL REGULATION OF OUTER SPACE MILITARY ACTIVITIES:
CONCLUSIONS AND RECOMMENDATIONS

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VI.1. Introduction

On account of the fierce competition to attain military supremacy in outer space and inability of the contemporary legal regime to effectively contain the pernicious activities, a serious threat to the global security and stability is inevitable.

It may be recalled that in the introduction to this study certain questions and issues posed by increasing military activities in outer space were raised for an examination from international legal perspectives. The present study was undertaken to meticulously search for answers to these questions. After a comprehensive examination of these questions and attendant issues, certain conclusions are reached. Most of them have already been stated earlier in Chapter IV which deals with lawfulness of military activities of various nature in outer space. These have been briefly restated below so as to provide a comprehensive perspective.

VI.2. Major Conclusions:

(1) Stationing, placing in outer space or in any other manner keeping in orbit X-ray laser weapons, chemical laser weapons, particle beam weapons, kinetic energy missiles, electromagnetic railgun, hunter-killer satellites; irrespective of the fact whether nuclear energy is utilized for their functioning and operation or for destructive mechanism, is not prohibited by the existing regime of law
applicable in outer space. However, as far as the U.S. and the U.S.S.R. are concerned, the ABM Treaty forbids development, deployment and use of weapons designed for anti-ballistic missile defence in outer space. Use of such weapons in outer space from outside outer space is also prohibited irrespective of the technology involved for the functioning of the weapons except and insofar as limited deployment permitted under the ABM Treaty.

(2) Stationing or installing any type of weapon on the celestial bodies is incontrovertibly and categorically prohibited by the Outer Space Treaty and the Moon Treaty. Both the abovementioned treaties are explicit in prohibiting not only stationing or installing of weapons, but also testing of weapons, conduct of military manoeuvres, establishment of military bases, installations and fortifications on celestial bodies. All military activities irrespective of the fact whether they are peaceful or defensive, non-aggressive or aggressive, passive or active, are banned on all celestial bodies. Thus, the celestial bodies are not only deweaponized, but demilitarised as well. This principle of space law has received general recognition and a wide acceptance so as to assert that it has gained the status of customary space law.

(3) The only category of weapons, the stationing or placing of which in outer space is prohibited is a weapon of mass destruction. This is so irrespective of whether the
weapon is nuclear or non-nuclear. Suffice it to call attention to the earlier discussion on the basis of which the researcher asserts that nuclear weapons per se are not prohibited from deployment in outer space. At the expense of repetition it must be stressed that only those nuclear weapons which are also weapons of mass-destruction may not be deployed in outer space. The researcher is aware that this conclusion is unacceptable to many states parties to the Outer Space Treaty as well as individual commentators. It seems hardly necessary to make more explicit that a state may deploy a non-mass destruction nuclear weapon such as a nuclear laser weapon in outer space without violating the Outer Space Treaty.

(4) Establishment of stations in outer space is now within the reach of the space powers. Such stations may be potentially significant to further economic, political and military interests of such states. Therefore, for their protection weapons systems may be deployed without violating any legal norms as long as no weapon of mass destruction is involved in the system.

(5) Apart from the general prohibition on use or threat of force in international relations as expressed in Article 2(4) of the U.N. Charter, use of weapons as such from land, air or sea against objects in outer space is not prohibited

1. See generally, Delbert Smith, Space Stations: International Law and Policy (Boulder, 1979)
by law. The conclusion would not be otherwise even if land based or air based or sea based weapons system depend for their functioning on component parts in outer space such as reflector mirrors of laser systems, guidance systems, command, control and communication satellites, etc.

(6) Testing of a weapon in outer space which requires a nuclear explosion is prohibited by the Nuclear Test Ban Treaty, 1963. Testing of other kinds of weapons is not prohibited in outer space. But as noted earlier, testing of any kind of weapon on celestial bodies is unlawful. The U.S. and the U.S.S.R. are committed to refrain from testing antiballistic missile weapons.

(7) Transit of weapons through outer space is not unlawful. Thus, the passage of intercontinental ballistic missiles which are expected to traverse through outer space before they home on their intended target is not prohibited.

(8) Use of satellites for various military purposes is not unlawful. A state may deploy in outer space a satellite for reconnaissance, military communication, early warning, geodesy and other related applications which may directly or indirectly contribute to military purposes or effectiveness of military activities without violating any law. Although there is no specific rule in international law which declares such military activities as lawful, yet it is reasonable to assert that a customary rule of space law has emerged on
account of extensive state practice so as to legitimize the use for military purposes of satellites launched into or deployed in outer space. Earlier in Chapter II it has been demonstrated that a rule of customary space law may emerge irrespective of the fact that the state practice in outer space is predominantly confined to the U.S. and the U.S.S.R. Also it has been pointed out that such practice of limited number of states may suffice to generate a norm of customary law even if it is a phenomenon of limited period of time. The extensive practice of not only the U.S. and the U.S.S.R. but even that of other emerging space powers is accompanied by a conviction that there is not a trace of illegality in such military activities because it is either in accordance with the law or permitted by the law. This conviction is the other constitutive element of custom formation, namely opinio juris. It is also significant to note that nowadays states do not object the use of satellites for certain military purposes, even though such use is detrimental to their interests.

(9) As regards use of weapons in outer space it must be noted that such use would be regulated by general international law, particularly the jus ad bellum. Developments of the last several years have culminated in emergence of an incontrovertible norm of international law which proscribes use or threat of force in international relations. It has been enshrined in Article 2(4) of the

2. Supra, Chapter II.2.(2).

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U.N. Charter and has gained the status of jus cogens. This norm is all pervading and also applies extraterrestrially. It, therefore, hardly needs to stress that use of force in the space milieu would be regulated by this norm.

(10) The general rule of non-use of force in international law admits two exceptions: use of force by way of self-defence and collective action under the auspices of the United Nations. Whilst it would be implausible to envisage collective action under the auspices of the United Nations in outer space, at least in the foreseeable future, yet use of force by way of self defence in outer space may not be inconceivable. Thus a state may destroy military objectives belonging to its adversary in outer space with impunity if it is entitled to exercise the right of self-defence. All the conditions laid down by Article 51 of the U.N. Charter must be satisfied for the use of force by way of self-defence. It has been demonstrated that international law does not insist on coterminusness of use of force by way of self-defence. This would enable a state whose territory has been attacked to direct forcible defensive measures against space objects of the aggressor. Therefore, there need not be a territorial nexus between use of force by way of attack and by way of self-defence.

(11) Opinion has been divided on the question whether a right of anticipatory self-defence exists in contemporary
international law. This controversy becomes all the more poignant in the context of military preparedness in outer space. The researcher takes the view that the right of anticipatory self-defence no more survives in contemporary law. Therefore, preventive action by one state against military objectives in outer space belonging to an adversary would not be in accord with international law.

(12) As regards application of humanitarian law to conflicts in space, certain problems arise on account of inability to distinguish between military activities and civilian activities in outer space. Because, not all humanitarian laws are pertinent in the context of outer space armed conflicts and those which are pertinent are based on the presumption that civilian and military activities, targets and persons are distinguishable from each other.

(13) Delimitation of air space from outer space - one of the most controversial and perturbing issues so far arisen in space law - has grown out of extensive military interests of space powers in outer space. Delimitation will undoubtedly facilitate maintenance of public order in outer space. But states interested in military activities in outer space are not willing to resolve the issue once for all, apparently because they fear that such a delimitation will invariably inhibit military exploitation of outer space.

The above observations are intended to highlight the legal issues involved in military activities in outer space.
They serve as a harbinger of impending armageddon which needs imperious and perseverant consideration on the part of the international community. As noted earlier in Chapter V, various measures have been proposed to aggrandize the regime of space law to control and contain activities of military nature in outer space.

No one would doubt that for resolution of the main and attendant problems brought about by military activities in outer space and to constrict such activities, a pragmatic and plausible approach is indispensable. Though the problem is not inextricable, yet it needs to be dealt with on more than one fronts. Because it is intertwined with considerations of strategic stability, political relations, concern - genuine or otherwise - for the safety of population, mutual reliability, desire to improve relations, global domination, concern for maintenance of international peace and security, respect for international law and so on and so forth. A comprehensive examination of the issues under consideration with reference to all the facets is obviously beyond the scope of the present study.

IV.3. Recommendations:

The objectives of the present study were, in the main, to highlight the deficiencies in the existing legal regime and to suggest measures for its improvisation. The researcher as an international lawyer can at the most propose
and recommend certain legal measures with utmost pragmatism keeping in view the fact that adoption or rejection of legal measures depends invariably on extra-legal considerations. This ought not to imply that now there is only a forlorn hope, but at the same time, one need not be exuberantly optimistic as well. With this predisposition and understanding, following observations have been made and proposals recommended.

(1) The implications of non-delimitation of air space from outer space have been extensively examined in Chapter IV. It may be recalled that it is the military interest in outer space that is dissuading any real progress on the matter. Be that as it may, on the basis of earlier exposition on customary space law, it may be ventured to contend that spatial delimitation has already taken place on account of considerable state practice and opinio juris. Earlier, the researcher has demonstrated that a state practice of a few states and relatively for a shorter period could be conducive to customary space law formation. Admittedly, the practice of states in launching satellites is varied. The apogees and perigees of satellites launched into outer space are understandably different. However, there is one element of uniformity in such practice. No satellite launched so far has orbited at a height less than 80 miles from the surface.

3. Ibid.

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of the earth. This is so because of the conviction on the part of launching states that air space ends at an altitude of 80 miles and if a space object ventures to traverse at a height less than 80 miles, it will amount to intrusion in national air space of subjacent states. A clear and unambiguous *opinio juris* is discernable in the state practice which is uniform and universal. Therefore, the researcher submits that a spatial delimitation between air space and outer space has already taken place on account of emergence of a customary norm of space law to that effect. However, in view of the existing controversial nature of the issue, this may not be a clearest expression of the legal exposition. Besides, customary law is susceptible to change with passage of time and variation in practice. Admittedly, there is a great degree of uncertainty in this respect. The limit of 80 miles is only a tentative suggestion. It is also claimed that air space has upper boundary at 50 kms., and the outer space has lower boundary of 100 kms, and the gap between the two is 'mesospace'. Hence, it is recommended that all space exploring states as well as others formally accept the crude legal fact that the boundary between air space and outer space lies somewhere around 80 miles altitude and leave its articulation and refinement to a specific treaty on delimitation. There is a considerable concern among space users regarding transit

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rights for approach to and return from outer space for their
space objects. To resolve this problem, it is recommended
that nations may venture bilateral arrangements with
neighbouring states. Such arrangements have proved
instrumental in the field of civil aviation. Though the
context and issues as regards transit from outer space are
radically different, yet this is something which is worth
attempting.

(2) The Outer Space Treaty and other space treaties do not
rule out certain military activities in outer space. Mainly
falling in this category are use of satellites for variety of
military purposes like reconnaissance, early warning, etc.
The researcher has advocated that a customary rule has
emerged in space law which has conferred legitimacy on
satellites engaged in certain military activities. But then
it is also possible to argue that use of satellites for
certain military activities was never unlawful in
international law and hence the question of conferring
legitimacy on them does not arise. A reasonable view would
be that if at all there are any misgivings in the minds of
those who at one time fulminated their objections against
satellite reconnaissance, now they must accept that these
military activities are not unlawful. It would be wise,
therefore, to recognize this legal disposition in a future
treaty on military activities in outer space.

(3) As noted earlier, when the question of regulation of
military activities in outer space was taken up by the United Nations, initially a debate ensued as to which organ or forum of the U.N. is competent to deal with it. The two possible fora were the COPUOS and the Committee on Disarmament. At the insistence of the U.S. and their allies, the matter is now being considered by the Conference on Disarmament. The U.S. uncompromisingly contended that arms race in outer space is linked with arms race on the earth and hence the framework of the Committee (and now the Conference) on Disarmament is ideal for examination of the main and related issues. The U.S. argument is not without substance. It must be admitted that military escalation in outer space is just one aspect of the general arms race. Besides, some of the space weapons are intended to counter surface to surface ballistic missiles. Some military activities in outer space are contributory and complementary to and commensurate with military activities on the surface of the earth. Therefore, it must be pragmatically admitted that success or otherwise of legal regulation of military activities in outer space is invariably dependant on disarmament or arms control on the surface of the earth.

The consideration of the issue under the aegis of the Conference on Disarmament must continue. But most importantly, the U.S. and the U.S.S.R. must be encouraged to engage in bilateral talks on this issue. It is appalling that the question of space weapons did not surface during the

5. Supra, Chapter V.2.
Malta Summit Talks between President Bush and President Gorbachev in December 1989. It is their mutual consideration, understanding and consensus and not the clamouring and vociferation of the rest of the world that will facilitate and expedite fruitful resolution of the formidable questions. The rest of the community may well exert moral pressure, which may not have any visible consequence unless the concerned states adopt a considerate outlook.

(4) Often a question is raised, whether proposed ban on space weapons should be in the form of a bilateral agreement between the U.S. and the U.S.S.R. or should a multilateral treaty acceptable to both the U.S. and the U.S.S.R. be drawn up. The treaty proposed by the Union of Concerted Scientists is a bilateral agreement. Whereas, the U.S.S.R. drafts and proposals made by some other states advocate a multilateral approach. The researcher strongly advocates adoption of a multilateral treaty rather than a bilateral agreement for several reasons. It is a common knowledge that the U.S. has involved directly and indirectly Israel, Japan and some Western allies in their space weapons programme. It would be advisable to bring within the purview of future ban other potential space powers as well. A bilateral measure will be limited in scope. Besides, a multilateral commitment carries greater moral force, because a recalcitrant state party is accountable not only to one state, but all the other states parties.
Of course, expecting the international community including the two super powers to agree to a comprehensive and total ban on space weapons in the immediate future would be not only unreasonable, but ludicrous as well. What is therefore needed is a perseverant approach, which would essentially involve progress in stages rather than at one stroke.

(5) Already there is a talk of step-by-step approach going on. The researcher endorses this approach and suggests certain possible stages. As a first measure, the U.S. and the U.S.S.R. may reach an understanding on a limited non-withdrawal commitment as far as the ABM Treaty is concerned. As noted earlier, during the Washington Summit in December 1987 the two sides had come very close to make such a commitment. Disagreement regarding the period marred the progress. But with renewed efforts if both the super powers take up the issue and agree to a limited period of non-withdrawal, it would certainly facilitate further progress. Protection of vital satellites is one of the thorny issues that is impending progress. As mentioned above, legitimation and granting of protection to these space objects will facilitate further progress. A ban on antisatellite weapons could be negotiated. Admittedly, it is not very easy to reach an agreement on antistellite weapons system, but it may be recognized as one of the logical steps towards appropriate legal regulation of military activities in outer space. The ban on antisatellites must also deal with scraping of
existing systems. In the first instance, such a ban could be bilateral, but later it may be converted into a multilateral regime.

The third step - and the most formidable of all - would be to strive for a ballistic missile defence weapons agreement between the U.S. and the U.S.S.R. This could be done by supplementing the existing ABM Treaty or by drawing up a separate agreement. This obviously must be achieved before the expiry of the non-withdrawal period agreed as a first measure.

Once bans are agreed on antisatellite weapons systems and missile defence weapons systems between the two superpowers, it would not be impossible to expand the ban and extend it to other potential space powers by transforming it into a multilateral treaty as a next measure or step. But such a multilateral treaty must also deal with other related and crucial issues, viz., delimitation of airspace from outer space, legitimization of certain military satellites, protection to satellites, verification of obligations assumed, satellite monitoring by an international inspectorate, and other related matters. For creating an infallible regime, rather than piece-meal measures, comprehensive regulation of military activities in outer space is indispensable. But one must admit that there is a long way to go. Whenever it becomes feasible and viable, the proposed treaty has to be perspicuous to ensure that a foolproof and infallible
regime is created.

The process of legal regulation would be complete with the establishment of a permanent authority to oversee maintenance of public order in the space milieu. This could only be achieved by establishing a permanent World Space Organization.

VI.4. Establishment of a World Space Organization:

One of the indispensable pre-requisites for promotion of peace in outer space is to encourage and facilitate optimum co-operation amongst space powers for peaceful space activities. Co-operative efforts and ventures are essentially aimed at producing constructive results. The international community must, therefore, strive to establish a permanent forum to facilitate co-operation amongst space as well as non-space powers so as to enable them to coalesce, resolve problems and overcome the impediments encountered in exploration and uses of outer space. To this end, establishment of a permanent space organization in the form of an intergovernmental international organization would have inestimable advantages. The fact that many intergovernmental international organizations have been immaculately dealing with multifarious aspects of international life and relations is a living testimony to the credibility and indispensability of such institutions. The international community has to face complex problems which
imperatively demand conjoint efforts and confluence of ideas. The exploding force of science and technology, if left uncontrolled, would invariably allure nations to exploit it to subserve their self interest to the detriment of the interest of other states and the international community as a whole. In the researcher's opinion, institutionalisation of co-operation in outer space would be a superlative event in the history of mankind. Indeed, the growth of international intercourse is a constant feature of maturing civilizations. The concept of international institutions has already been institutionalized in the international community. The legal aspects of such institutions have also been dealt with by a specialized branch of international law: the law of international institutions. No one would deny that creation of an international space organization would facilitate peaceful activities in outer space, encourage technological and scientific co-operation and discourage competition, conflict and confrontation.

After taking a stock of the current political climate and relations prevailing between the leading members of the space club whose co-operation and support to realize creation of an international space organization is indispensable, one must concede that today such a proposal will sound Utopian.

But this need not necessarily dissuade us from presciently suggesting and encouraging creation of such an organization.

Whenever establishment of such an organization becomes viable and practicable, it is submitted that it should be founded on certain assumptions and guided by certain principles. Apart from the general principles of international law which in the contemporary world regulate the functioning and working of many international institutions, outlined below are certain premises which ought to preordain the essential features of the proposed organizations.

(a) The organisation ought to possess comprehensive powers to effectively deal with all aspects of space exploration and uses. Commercial exploitation of outer space resources, placing of satellites for variety of purposes, scientific experiments and related activities may be supervised and regulated by the organization. Earlier it has been demonstrated that use of satellites for certain military purposes has gained legitimacy. This activity of satellites could also be regulated by the organization.

(b) The most significant function of the organization would be to verify space arms control measures. It is hoped that before such an organization comes into being, some arms control measures for outer space will come into force. Association of the space organization with space arms control measures would not only be congenial, but also conducive to effective implementation of such measures. The researcher endorses the view that the proposed organization would supervise implementation of the arms control measures with the technical assistance of the space powers in the initial days. A noteworthy suggestion of on-site pre-launch inspection of space objects by international teams has been made as an effective and practical way to verify compliance with and observance of arms control measures.

(c) Protection of satellites which discharge vital functions in modern times is one of the greatest concerns of nations in the wake of development of antisatellite weapons. As a consequence, and as noted in the previous chapter, various proposals have emerged within and outside the United Nations regarding creation of an international satellite monitoring agency. Needless to mention, there would be no other authority as appropriate as the proposed space organization


to discharge the crucial responsibility of satellite monitoring. Of course, this presupposes equipping the organization with adequate powers and technological capabilities to that end.

(d) The proposed organization would be an ideal authority to oversee implementation of space treaties - pre-existing as well as future. Thus, registration of space objects, assistance to astronauts in distress, rescue and return of space objects that have encountered difficulties and/or accidents, questions of compensation in case of damage caused by space objects, protection and preservation of the natural environment of outer space, traffic management and safety in outer space, uses of geo-stationary orbit, remote sensing of resources, direct broadcasting via satellites and other cognate space activities are some other responsibilities which may be entrusted to the proposed organization for effective implementation.

(e) It would be a platitudinous proposition to assert that the proposed organization must be clothed with international legal personality, a status essential to enable the organization to effectively discharge the functions to be entrusted to it. This is now a very well established norm in the law of international institutions. From such a

personality, flow certain consequences, certain attributes which are fairly common to all international, inter-
11 governmental organizations.

(f) It is undoubtedly desirable that the proposed organization is brought into relationship with the United Nations. Many specialized agencies have been brought into relationship with the United Nations, some in existence prior to the UN and some created later, in accordance with Articles 57 and 63 of the Charter. These articles provide a basis to create such a relationship but they presuppose that organizations established in economic, social, cultural educational, health and related fields would be the prospective candidates for association with the U.N. It is axiomatic that some of the functions and responsibilities to be entrusted to the proposed organization may not congruously fit in the framework envisaged by Article 57. It would be a mistake, however, to think that the U.N. Charter and the system in general discourages association with the U.N. outside the framework of Article 57 of the Charter. It need not be reminded that objectives of the proposed organization are indubitably congenial to the general objectives and purposes of the United Nations. Article 1 of the Charter has comprehensively described the purposes of the United Nations and, indeed, the objectives of the proposed space organization are hardly incongruous with them. The large


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measure of international legal personality of the United Nations regarding which now there are no misgivings will undoubtedly enable the U.N. to create a meaningful and purposive relationship with the proposed space organization. Already many of the responsibilities expected to be discharged by the proposed space organization are being dealt with, albeit on an elementary plane, by such bodies of the U.N. as the COPUOS, the Conference on Disarmament, the International Telecommunications Union, etc. Besides, it must significantly be noted that apart from the typical specialized agencies as envisaged by Article 57 of the Charter, bringing into relationship with the U.N. other intergovernmental organizations was not ruled out by the Preparatory Commission at San Francisco.

Therefore, it is urged that the proposed space organization be made a member of the UN family. Such an affiliation will undoubtedly enable the proposed organization to co-ordinate with pre-existing organizations and bodies whose functions and responsibilities impinge upon space activities.

(g) With some imaginative foresight it is possible to envisage establishing a commercial wing of the proposed space organization. Today many nations are prevented from

participating in space activities and are deprived of the superlative advantages thereof on account of lack of infrastructure, technology and because of the immense expenditure involved. Especially, activities like launching and placing satellites for various legitimate activities will doubtless enable those who are deprived from reaping the advantages of innovations in space sciences to advance themselves. Such a munificence on the part of the space organization and in turn on the part of pioneer space powers, will be profusely appreciated by non-members of the space club. This will be conducive to betterment of international relations. It must be admitted that the notion of establishing a commercial wing has been borrowed from the United Nations Convention on Law of the Sea, 1982, which establishes 'the Enterprise' as a commercial wing of the International Sea-Bed Authority. But it is ironical to note that the principle on which the International Sea-Bed Authority is founded, namely, the common heritage of mankind, was incorporated in space law before it found expression in law of the sea. Of course, it must be conceded that the time is not yet ripe for commercial exploitation of the resources of celestial bodies as it is with the deep seabed


resources. But this need not hamper progress in commercial exploitation of outer space, especially the geostationary orbit under the aegis of an international authority. If the highseas and the deep seabed are 'global commons', outer space and celestial bodies are indeed 'cosmic commons' for use and enjoyment by all on the basis of equality, without discrimination.

(h) Dispute settlement is one of the most poignant issues to be resolved while creating an international regime. Already variety of procedures and mechanisms exist in international law and international institutions ranging from negotiated settlement to adjudication with varying degrees of authoritativeness, conclusiveness and effectiveness. It is difficult to predict which model will be acceptable to the states when creation of space organization becomes viable. It all depends on the political climate which will reign at that time and the extent to which leading powers in the world will be prepared to co-operate to make the organization a successful venture. Effective dispute settlement machinery is indispensible for efficient functioning of any organization. The researcher with due caution, abstains from making any specific suggestion in this respect for it will amount to predicting the unpredictable.

VI.5. Compendium :

The significance of outer space exploration has immensely increased during the recent past on account of
several factors. The exquisite advantages reaped by outer space exploration and uses are unparallel in the history of mankind. Space activities and uses are doubtless instrumental in improving the quality of life and progress of mankind. Space applications have immeasurably contributed to superlative advances in variety of fields such as agriculture, mining, ground water technology, meteorology, telecommunication, electronic media, generation of energy, and so on and so forth.

With an unforeseen increase in and reliance on space activities, the need to regulate such activities to avoid conflict and confrontation was imperious. Realizing this, the leading space powers sagaciously collaborated to adopt some standards for observance in the conduct of their space activities. This was the beginning of development of space law. But with passage of time the unprecedented increase in space activities made the rudimentary and elementary legal controls inadequate and inappropriate. Additional legal measures were devised and adopted throughout the 1970s. But developments of the following decade with an accent on military uses discomposed the international community. Proclivity on the part of leading space powers to exploit and manipulate outer space is now evident. The queer designs to equip for battle in and from space are indeed motivated by incomprehensible and inconsiderate desire to achieve military supremacy. Technologists and scientists have convinced the military planners that exotic weapons systems for use in and
from outer space are feasible. The meagreness of existing legal regime to outlaw pernicious military activities in outer space is understandable. Arms race in outer space is not only affecting the states directly involved, but it is disquieting other members of the international community as well. The latter is fervently demanding aggrandizement of the legal regime of outer space to check activities of military nature and confine activities in outer space to peaceful purposes.

But admittedly, improvisation of the legal regime with a specific goal to control military activities in outer space is fraught with several problems. It is axiomatic that the two super powers who possess exquisite space technology and ability to manipulate it for beneficial as well as baneful purposes, will play a decisive role in development of space law. There are no misgivings that the contemporary legal regime of outer space is inarticulate, insufficient and replete with deliberate loopholes which enable the space powers to pursue their military space projects without any impediment. It must be pragmatically admitted that improvisation of the legal regime of outer space is inconceivable unless the Americans and the Soviets sponsor and endorse it. Without their active participation and quixotic support advances in space law are unthinkable. Because they are the major actors in space milieu and it is mainly for the regulation of their conduct, improvisation is essential. From what has been said above it will be clear
that dovetailing of ideas and ideals of these two space powers is an essential prerequisite for effective space law making.

It is essential to grasp the fact that non-regulation of military activities in outer space portends a conflict not only in outer space, but on the surface of the earth as well. No one would deny that regulation of military activities in outer space, especially preventing escalation of arms race therein, will reap inestimable advantages for maintenance and preservation of peace in outer space and the terrestrial earth. There is no gainsaying that some progress has already been made in proscribing highly insidious military activities in outer space. But by a curious irony of events, space weapons projects have added an egregious dimension to the arms race making general disarmament and arms control a formidable task.

The United Nations, the organization on which disconsolate nations greatly rely, has been endeavouring to dissuade the recalcitrant nations. But the organization has inherent limitations. For inaction and inability, rather than the organization, the nations which compose and control it deserve to be blamed. But the proposals emerging within and outside the U.N. are unfortunately falling on deaf ears. Such insoucience on the part of leading space powers is lamentable. The dismal truth is that critical issues pertaining to military activities in outer space have become
part of the polemics, and serious consideration and resolution is neglected on account of state rivalry and competition. But this need not and should not despair the international community. Pertinacious and perseverant efforts with immense patience are indispensable for fruition. It would be unwise to expect that all problems so engendered could be resolved overnight, or that there exists a panacea. An unpleasant truth is that arms control and disarmament are elusive phenomena. Therefore, a pragmatic and rational approach is needed to improvise the legal regime and achieve progression in stages. The first step imperiously needed is to halt retrogression. This will pave way for other developments. The proposal to create a permanent forum for maintenance of public order in outer space, though tantalizing, yet is not altogether implausible. What is imperative is a gradual change in policies so as to avoid hostility and foster mutual trust, which would, in the long run, bring the two leading powers closer so that they may meaningfully collaborate and co-operate with each other. To end on an optimistic note, it is hoped that the concerned powers will realise the inestimable advantages of containing their military ambitions in the larger interest of the international community.


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