

“The Politics of Space”
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No discussion of the politics of space can be engaged without acknowledging the special status that outer space enjoys, a status that is relatively rare when compared with the prevailing political models here on earth. The status is one of a “global commons” or in the language of the foundational Outer Space Treaty of 1967: “the province of all mankind”, “not subject to national appropriation”. The use of outer space is to be “for peaceful purposes” and “shall be carried out for the benefit and in the interests of all countries”. This special regime represents something of a high-mark of international cooperation and an act of preventive diplomacy that has served the interests of the international community for several decades.

This regime, centred on the Outer Space Treaty is however marked by both dynamic and static aspects. The last decade or so of outer space activities give stark examples of both conditions. The dynamic side is represented by the impressive growth in the number of states engaged in space operations and the tandem expansion of the number of involved non-state actors. There has been a commensurate and rapid growth in the range of services being delivered from space and societal dependence on uninterrupted access to these services. All of these developments should also translate into a natural expansion of the stakeholders for maintaining security in outer space. The Outer Space Treaty, with its ban on Weapons of Mass Destruction in orbit or the militarization of celestial bodies, had a goal of peaceful use, but state practice has permitted non-aggressive military use of space and the possibility of placing non-WMD weapons in space remains a potential vulnerability.

Some of these concerns have been stoked by developments of a more negative nature. For example, recent years have witnessed a re-emergence of a threat that had been dormant for over three decades. I refer in particular to the anti-satellite weapon or ASAT tests of 2007 (China) and 2008 (US) respectively. These demonstrations of the capability to target and destroy satellites in orbit served to draw attention to the fact that such damaging acts have not been ruled out of order by the international community and that it was reliant on state restraint to prevent catastrophic actions in the outer space environment.

In contrast to these developments is the largely static situation that has characterized the legal-diplomatic framework for outer space. While we can rightly celebrate the Outer Space Treaty of 1967, we have to acknowledge that little has been done since then to develop the normative regime for outer space.

At the same time there seems to be a major disconnect between what the international community says it wants for outer space and what it is actually prepared to do. This policy direction has come in the form of the “Prevention of an Arms Race in Outer Space” (PAROS) resolution, which has been passed with near

universal support in the UN General Assembly on an annual basis since the early 1980s. This resolution calls for reinforcing the existing regime with additional measures and enhancing its effectiveness. It also specifies the establishment of a working group on PAROS in the Conference on Disarmament the 65 nation body in Geneva that is supposed to negotiate multilateral arms control and disarmament agreements“ as early as possible in the 2016 session”. Alas such appeals have taken on the nature of an empty, ritualized process given the fact that the CD has been moribund for almost 20 years. This stagnant diplomacy with respect to outer space security regrettably has been tolerated by states for far too long.

Fortunately the world doesn't stay still just because diplomats have become complacent. External events are often catalysts for action. The shock of the ASAT use in 2007 and 2008 combined with the increased recognition of the threat to low earth orbit space operations posed by growing space debris has galvanized some concerned states into taking action.

The current diplomatic dynamic has yielded a number of ideas of which four proposals figure prominently in multilateral discussions concerning outer space:

The oldest of these proposals is the Sino-Russian draft treaty on the Prohibition on Placement of Weapons in Space Treaty (PPWT). This proposed treaty, elements of which were already introduced back in 2002, was officially presented by China and Russia to the CD in 2008 with a revised version submitted in 2014. It has been criticized for its scope (space-based weapons only) and lack of verification provisions. The major impediment to its receiving attention however seems to be its sponsors' insistence to confine consideration of the treaty to the CD exclusively. This in turn has led to the unsurprising consequence that little discussion of the draft has occurred.

A more successful Russian initiative from 2011 was the convening of a UN Group of Governmental Experts on Transparency and Confidence Building Measures (TCBM) that produced a substantive and consensus report in 2013. The report set out a menu of possible measures and a useful set of criteria for evaluating proposed measures. It remains however only a set of recommendations and to date states have not displayed a commitment to adopt any of these measures.

Probably the proposal that has received the most attention in recent years has been The International Code of Conduct for Outer Space Activities initiated by the EU and the text of which was first presented in December 2008. The Code essentially re-packaged existing principles and commitments into a framework of confidence building measures and arguably does not really enlarge upon the current normative framework. The Code does contain however a promising innovation of institutional support including provision for biennial meetings of state parties, annual exchanges of information, consultative mechanisms and a Central Point of Contact with secretariat-like functions. All of these institutional elements were lacking in the Outer Space Treaty. The diplomatic gestation of the Code of Conduct has been

protracted and problematic. In particular the ICOC initiative seems to have alienated several influential space powers that were not brought into an equitable process for the development of the text. The EU belatedly agreed to move the process into a multilateral negotiation, but its ultimate acceptability is far from assured. A session in New York, at the end of July that the EU had hoped would constitute a negotiation of the text quickly ran into resistance on the part of states, notably from the BRICS, which insist that a UN General Assembly mandate for a negotiation process be obtained first. Whether the EU is prepared to let go of its initiative in this way is not clear.

If divisions emerged over what many observers considered a relatively innocuous package of measures represented by the Code of Conduct, it is not surprising that more prescriptive measures on space security have encountered resistance. The most recent initiative, again originating with Russia, has disrupted the generally consensual approach that has marked multilateral work on outer space security in the past. I refer to the new resolution Russia introduced at the General Assembly in 2014 calling upon states to pledge not to be the first state to place weapons in outer space. Many states viewed this as an unhelpful move that could be seen as providing an incentive to states to develop space weapons capabilities so they could respond to any first use. As a Brazilian diplomat has put it recently "If our aim is truly to prevent actions that would lead to the destruction of or to interference with space objects, we should be saying something simpler and more direct: no weapons shall ever be installed, deployed or used in outer space. There will be no placement of weapons in space. No first, second or third placement. Period".

Although the resolution (69/32) was adopted by the General Assembly with 126 positive votes fifty states either opposed or abstained on the resolution, creating new divisions amongst states on this sensitive dimension of space security. At a time when there are voices in military establishments reviving the discourse of space dominance and offensive space operations, it is appropriate to ask whether we should be working to enlarge or bridge the differences among states over how best to secure outer space.

Given that the level of mistrust and belligerent rhetoric is on the rise, it would be prudent to seek to reconstitute the consensus around preserving space as a benign operating environment to further the peaceful purposes of humanity. One possible diplomatic initiative would be to arrange the first ever meeting of states parties to the Outer Space Treaty to commemorate its 50th anniversary in 2017. A meeting of the 101 states parties would afford an opportunity to celebrate the Outer Space Treaty and what has been achieved under its auspices over half a century as well as spur reflection on what might be done in future to advance its core objectives.

To conclude, there is a price to be paid for the relative neglect of the politics and diplomacy of space security. Is it wise to rely indefinitely on the self-restraint of states without codifying in some fashion norms for responsible state behavior? The current political-military environment is manifesting negative tendencies that could

seriously threaten safe and secure space operations. There is a need for a countervailing diplomatic dynamic that will look to reinforce the existing cooperative regime for outer space security and extend its scope and effectiveness. This is not only a work for diplomats and politicians. It will be crucial for the broader stakeholder community to engage on these issues in order to defend their own interests and those of humanity in general in the vital, but vulnerable outer space environment.