

India's anti-satellite missile test

Another reminder of the gaps in the 1967 Outer Space Treaty

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In a much-publicized [address](#) on 27th March, India's Prime Minister Narendra Modi announced that the country successfully tested its anti-satellite (ASAT) missile by destroying a live mini-satellite placed in Low Earth Orbit (LEO), 300 kilometres from the earth's surface. Codenamed "Operation Shakti", the ASAT missile has been developed indigenously by the Defence Research and Development Organisation (DRDO). Reportedly, an interceptor missile was used, which was part of the DRDO's ongoing Ballistic Missile Defence (BMD) programme. Only the United States, Russia and China thus far had demonstrated ASAT capability. However, it is clear from the [statement](#) of a former DRDO Chief that India has had the technical capability to develop ASAT weaponry since 2012, but the project was not given a go-ahead.

Shift in India's Space Policy

This move represents a [departure](#) from India's long standing position on the weaponisation of outer space. As a major spacefaring nation, India has consistently advocated the peaceful uses of outer space and proactively participated in the negotiation of the Outer Space Treaty of 1967, which clearly provides for the demilitarization of outer space. Recently, in a 2018 session of the United Nations Commission for Disarmament, India reiterated its opposition to the "weaponisation of outer space and [that it would] support collective efforts to strengthen the safety and security of space-based assets."

In the press release ([FAQ](#)) that followed the exercise, Indian government asserted that the test "provides credible deterrence against threats to [India's] growing space-based assets". This test is seen as response to Chinese ASAT tests in the past several years. The United States too have recently announced its plan to constitute a "Space Force", a dedicated military branch for protecting its space assets and augmenting its offensive capabilities in outer space. As pointed out [here](#), India's move might also be prompted by its experience with the Nuclear Non-proliferation Treaty. Domestically, the test is criticized for its timing as the general elections in India are only a few weeks away.

OST and ASAT Testing

The Prime Minister in his address noted that India did not violate international law in the process. In the "[FAQ](#)" that was released after the his address, India has stressed that the test did not violate the 1967 [Outer Space Treaty](#) (OST) or other international agreements. The OST, the first multilateral agreement that provides for a legal framework for the governance of the outer space, is widely held as the "magna carta"

of space law. An outcome of space race between the United States and the Soviet Union during the Cold War, it emphasises the peaceful uses of outer space. So far, 107 States, including India, are parties to it.

It can be argued that articles IV and IX of the OST have a direct bearing on the test of ASAT weapons. Paragraph 1 of article IV prohibits the placement of “any objects carrying nuclear weapons or any other kinds of weapons of mass destruction (WMD)” in orbit around the earth. An ASAT missile, like the one tested by India, however, is a ground-based weapon. Testing of such a weapon, even if it leaves the earth’s atmosphere, does not amount to its placement in outer space by any stretch of imagination. Further, the missile in question does not have a nuclear warhead or a WMD— it is described as a “kinetic kill” weapon that directly smashes into the target object. Paragraph 2 of article IV prohibits the testing of “any type of weapons” on “celestial bodies” only which renders it ineffective for application in this scenario.

Article IX asks States Parties to “undertake appropriate international consultations before proceeding with any [activity]” that might “cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space”. Nevertheless, the provision is silent about the procedure or effects of such consultations. Its vague language also diminishes its utility as an arms control provision.

Article IX also casts an obligation not to contaminate outer space. ASAT testing in general creates a substantial amount of space debris that are harmful to satellites in orbit and other space missions. The United States has already [expressed its concerns](#) on its effect on the proliferation of orbital debris. The 2007 Chinese ASAT weapon testing, which was held at an altitude of 865 kilometres, had caused the largest recorded creation of space debris with more than 2,000 pieces of trackable size besides innumerable specs of tiny particles that cannot be tracked. India, on its part, was careful in distinguishing its exercise from the Chinese test. In the press release (FAQ) mentioned above, Indian government claimed that the debris generated would eventually re-enter the earth’s atmosphere and burn out.

Inadequacies of the Current Legal Regime

Some commentators refer to the broad language in the Preamble and articles I and III of the OST to argue that it provides for the effective demilitarisation of outer space. As is clear from recent history, space-faring nations pay scant regard to such ambiguous stipulations. Admittedly, other space treaties such as the Astronauts Rescue Agreement of 1968, the Liability Convention of 1972, the Registration Convention of 1976 and the 1963 Limited Test Ban Treaty have a bearing on weaponization of outer space. But they too provide minimum deterrence in this regard.

The content of the deliberations in the United Nations, particularly in the UN General Assembly and the UN Conference on Disarmament (UNCD), over the past couple of decades suggest near unanimous opposition to the militarization of outer space. However, this has not thus far translated into a comprehensively treaty to address this issue. Such a treaty [Prevention of an arms race in outer space (PAROS)]

has been on the agenda of the UNCD since 1981. However, the United States consistently opposes negotiating a multilateral treaty on arms race in space. It had vehemently argued against giving a negotiating mandate to the ad hoc committee established by the UNCD in 1985 to examine issues relevant to PAROS, stating that it “has not identified any practical outer space arms control measures that can be dealt within a multilateral environment.”

Contrastingly, Russia and China have been proactive in pushing for its fruition. In 2008, China and Russia submitted a draft text to the UNCD which *inter alia* prohibits the placement of ASAT weapons in outer space. A revised text was again introduced in 2014. The United States has voted against them in both occasions characterising them as “[fundamentally flawed](#)”. It believes that the realisation of a binding agreement would adversely affect its military superiority in space weapons. Notably, this [draft text](#), too, does not prohibit the testing or use of ground-based ASAT weapons. The UN General Assembly, too, consistently calls for negotiating PAROS treaty every year despite abstentions from the United States and Israel. In parallel, in 2017, the General Assembly established a Group of Governmental Experts (GGE) “to consider and make recommendations on substantial elements of an international legally binding instrument on the prevention of an arms race in outer space.” The GGE is expected to submit its final report soon.

Interestingly, Indian government has made a positive reference to PAROS in the ASAT press release. Now that it demonstrated its ASAT capabilities, it is hoped that the country will be more enthusiastic in joining international efforts for a comprehensive ban on the weaponisation of outer space.

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Disclaimer: Views expressed here are strictly personal.

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