

# THE LEGAL ASPECTS OF OUTER SPACE SETTLERS AND SETTLEMENTS

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## Introduction

We have reached the point in human history when advances in technology, finance, and law have made the utilization of outer space resources feasible. In response, COPUOS created the [Working Group on Legal Aspects of Space Resource Activity](#). For similar reasons, Space Renaissance International believes it is time to focus on the Legal Aspects of Outer Space Settlers and Settlements.

We consider both terms in their broadest meaning. A Settler is anyone who spends any time in orbital space or beyond. A Settlement is any location where one or more persons is living. With these definitions, we have found that there are four general areas of study:

1. The Current Framework of National and International Law;
2. Human Rights and the Right to Development;
3. Self-Governance and Autonomy;
4. Independence.

## I. The Current Framework of National and International Law

The [Outer Space Treaty of 1967](#) (OST) is the foundation of space law. It is a binding treaty that has been ratified by 118 countries and signed by 20 more, including all the countries that are active in outer space. There are several articles that affect settlers/settlements, including:

- Article I: Guarantee of free access;
- Article II: Prohibition against appropriation;
- Article IV: Prohibition against military bases/installations;
- Article VI: Requirement for authorization/supervision of all national activities;

- Article VIII and XII: Extension of a country's jurisdiction and control;
- Article IX: Protection against harmful interference.

Article VI establishes the interactive framework of national and international law. Every member state (or an intergovernmental organization like the ESA) must authorize and supervise the outer space activities of any of its nationals, including all non-governmental entities (e.g., individuals, corporations). Thus, any early settlers/settlements will be operating under the laws of the country/organization that authorizes/supervises their activities. If more than one country/organization is involved, there will need to be an [Operating Agreement](#) between them, as with the [International Space Station](#).

Because of Article II's ban on appropriation, neither countries nor their nationals can claim outright ownership of any location in outer space, though their jurisdiction and control will extend over objects, stations, and facilities (Articles VIII, XII). In addition, Article IX prohibits harmful interference, so there will be a de facto right of noninterference for any occupied location. COPUOS is currently considering the adoption of a Principle that removing a resource from in place is *not* inherently appropriation (unaddressed in the OST), even if it is regolith that is removed from the surface to build a lunar shelter/facility. Thus, buildings will be owned (and marketable), even if the location is not, and will be protected from interference.

## II. Human Rights and the Right to Development

In addition to the OST, there are two international declarations that are relevant to outer space settlers and settlements: The [Universal Declaration of Human Rights](#) of 1948 (UDHR) and the [Declaration of the Right to Development](#) (1986). The UDHR has two provisions of interest: Art. 14: "Everyone has the right to seek and to enjoy in other countries asylum from persecution"; Art.17: "Everyone has the right to own property alone as well as in association with others."

It is important to acknowledge the right to asylum, as OST Article VIII states that "A State Party . . . shall retain jurisdiction and control over . . . any personnel . . . while in outer space or on a celestial body." Most space-faring countries have already

signed the Refugee Convention (1951) or Protocols (1967), with India and many Middle East countries notable exceptions.

Although the ban on appropriation in OST Art. II does not explicitly mention private entities, Article VI requires countries to assure that activities of their nationals conform with the Treaty. But we should nevertheless acknowledge that individual settlers will have the same property rights that are available to any country, e.g., ownership of resources removed from in place and ownership of the right of non-interference, which will protect locations in use. Outright ownership of land will probably need to wait until a settlement becomes independent, at which time it must be made available to individuals.

Article 1 of The Declaration of the Right to Development states:

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.
2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes . . . the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Although these Declarations are not binding, they have established principles that have guided both national and international governance for decades. We must take them with us as we leave the home planet.

SRI is promoting an [18<sup>th</sup> Sustainable Development Goal](#), Civilian Development of Outer Space, to provide moral and institutional support for humanity's expansion into outer space. We believe that a strong civilian presence in outer space is essential for quality of life and sustainable development, on Earth as well as in space.

### III. Self-Governance and Autonomy

Some in the private sector are already planning the details of settlement self-governance. The efforts of SpaceX are perhaps the most ambitious; its [Starlink](#)

[terms & services agreement](#) states that "The parties recognize Mars as a free planet and that no Earth-based government has authority or sovereignty over Martian activities". However, this clause directly contradicts OST Article VI and would not be enforceable. [1]

A clearer path to autonomy is the development of self-governance as the need/opportunities arise. Although almost every minute of activity on the ISS is controlled by Earth-based authorities, a time will come when settlers want to decide their own schedules and how they work and live with each other. Such devolution of governance is common on Earth; many countries have federal systems, with political subdivisions (states, territories) responsible for most functions other than foreign policy and defense.

Until a settlement is ready to become independent, seeking autonomy within the legal framework of the authorizing/supervising country/organization is the only legal path available for the development of self-governance. Those who support self-governing settlements should promote national laws that facilitate such growth.

#### IV. Independence

Becoming an independent sovereign state will be more difficult. A settlement will at least need to meet the four standards established by the [Montevideo Convention](#), which has been widely accepted as customary international law: 1. a permanent population; 2. a defined territory; 3. a government; and 4. the capacity to enter into relations with other states.

Although Article 3 of the Convention states that "The political existence of the state is independent of recognition by the other states", such recognition is important as a practical matter. Any new sovereign state will not be bound by the OST and will be able to claim territory. It could then offer to adopt the OST and be subject to customary international law in return for other countries recognizing its claims. [2]

Note that the prohibition against appropriation in OST Article II actually favors independent settlements; it keeps the current world powers from claiming land while

preserving it for future settlements. On behalf of future settlers, we hereby declare their intention to seek independence and call upon the state members of COPUOS to do nothing at this time – politically, economically, or environmentally – that would interfere with their future interests.

## Conclusion

It is not too early to consider the legal aspects of outer space settlers and settlements. This paper is just the beginning. Space Renaissance International speaks for the settlers. We must start now to protect their rights and to chart a path to self-rule and independence. They are counting on us. In many ways, we *are* the settlers. Let us find a way to move forward without compromising their future interests.

## References

[1] *Cristian van Eijk*, Sorry, Elon: Mars is not a legal vacuum – and it's not yours, either, *Völkerrechtsblog*, 05.11.2020, doi: [10.17176/20210107-183703-0](https://doi.org/10.17176/20210107-183703-0).

[2] See, e.g., *Adele Ankers-Range*, Apple's Beloved Sci-Fi Series Returns in Epic Season 5 Trailer, *Movieweb*, February 24, 2026. <https://movieweb.com/for-all-mankind-season-5-trailer/>