

Establishing a Case for the New Interpretation of 'Weapons of Mass Destruction' under the Outer Space Treaty

Sandeepa Bhat B, *National University of Juridical Sciences, Kolkata*

Abstract:

The Outer Space Treaty 1967, also considered the *Magna Carta* of space law, advocates for the peaceful uses and prohibits the deployment of nuclear weapons or any other kinds of 'weapons of mass destruction' (WMDs) in space. Over the years, several attempts were made to define WMDs at various international fora. The modern techniques of warfare involving cyber attack from space and use of laser weapons or conventional weapons in space pose serious challenge in the interpretation of WMDs. The United Nations General Assembly Resolution 34/87-A defines WMDs as "atomic explosive weapons, radioactive material weapons, lethal chemical and biological weapons and any weapons developed in the future which have *characteristics comparable in destructive effect*" [emphasis added]. While this definition unequivocally provides for an expansive interpretation, the term 'comparable' has never been defined by consensus. Over the years, the general understanding of the quantum of destructive effect has been on the basis of our earthly experiences during the World Wars, and therefore, it has become hard to fathom conventional weapons as qualifying for the test of WMDs. However, there is a need to understand that the outer space is an entirely different environment, and therefore, the comparable rate of destructive effect of a weapon has to be assessed in the specific context of outer space and the laws of physics applicable in such an environment. This warrants a new interpretation of WMDs in tune with purposive and evolutionary approaches of treaty interpretation.