CUZEN RANDEREE DYASI

TO INFINITY AND BEYOND: WITH SOUTH AFRICA FINALLY A PARTY TO THE (SPACE) ACTION, WILL ITS LEGISLATION HOLD UP?

OCTOBER 2025 | PREPARED BY NABEELA BARAWIE

On 4 October 1957, the Soviet Union launched Sputnik I. This launch led to the famous Space Race and opened the doors to a whole new unexplored area of law, outer space. While a uniform definition has not been reached, jurists for the most part agree that outer space typically starts at the lowest altitude above sea level.

The origin of space law dates back to the 1910s, however, in 1967 the United Nations adopted the first space treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies ("the Outer Space Treaty"). The United Nations Educational, Scientific and Cultural Organization ("UNESCO") summarises this as "hard law". Hard law establishes rules expressly recognised by the contracting States.

The Outer Space Treaty established the foundational principles of international space law, emphasising that outer space exploration must benefit all countries and remain free for use by all states. It prohibits national sovereignty claims over space or celestial bodies and bans the placement of nuclear or other weapons of mass destruction in orbit or on celestial bodies. The treaty mandates peaceful use of the Moon and other celestial bodies, recognises astronauts as envoys of humanity, holds states accountable for both governmental and private space activities, makes them liable for any damage caused by their space objects, and requires the prevention of harmful space contamination.

South Africa signed the Outer Space Treaty on 1 March 1967 and ratified the Treaty on 30 September 1968. Twenty-six years later, South Africa introduced its first piece of space legislation, the Space Affairs Act 84 of 1993. However, the Space Affairs Act focused solely on administrative affairs.

In 2008, the South African National Space Agency Act 36 of 2008 was introduced, which brought about the creation of the South African National Space Agency ("SANSA") in 2010. SANSA was established to promote the use of space and enhance collaboration in space-related initiatives. Its mission includes fostering research in space science, developing scientific and engineering expertise through human capital development and driving industrial growth in space technologies.

The 2000s saw the introduction of private entrepreneurs venturing into space like SpaceX and Blue Origin, which mandated the establishment of the Artemis Accords in 2020. The Artemis Accords provide a set of non-binding principles to enhance the governance of the civil exploration and use of outer space, UNESCO summarises this as "soft law", which establish standards of conduct that, while not legally binding, carry greater normative weight than mere political statements.

While South Africa is partially compliant in adhering to international space law and norms, its absence of formal incorporation of proactive guidelines which the Artemis Accords provides (which South Africa has not signed) is worrisome.

The ratification of binding instruments such as the Outer Space Treaty, along with the enactment of corresponding national legislation, marks a significant step forward in South Africa's commitment to responsible space governance. However, the country's delayed engagement with non-binding frameworks like the Artemis Accords, designed to promote transparency, partnership, peaceful exploration, and sustainable practices in outer space, highlights a critical gap in its broader space policy. Embracing such soft law instruments would not only align South Africa with emerging international norms but also strengthen its position as a cooperative and forward-thinking player in the global space community. To fully realise its potential in the space sector, South Africa must take a more proactive approach to integrating both hard and soft law mechanisms into its legal and institutional frameworks.