

SPACE LAW: ORIGIN AND IMPORTANCE

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Abstract

Space Law is gaining its importance in today's modern and scientifically developing world. When countries started exploring space, then they realized that there should be a law which can govern countries all around the world in matter of space exploration and its activities. This need raised some treaties in United Nations and between some countries like USA, UK and USSR. Many countries signed Outer Space treaty and gave their consent to be governed by rules and regulations of that treaty and this treaty formed the basis of Space Law. In today's world where space activities and its objects are being privatized, Space Law is very much in need for private companies maintaining objects and testing and launching their private satellites in space. Space Law is one of the most important International Law which not only consists of space issues but it also takes care of competition between countries on space exploration, it also takes care of international relations between two countries, because relation of two countries can have an impact on space exploration. The superpowers try to restrict small countries from developing in space exploration and technologies but still countries like India is succeeding. Space Law has become an inalienable part of International Law and no one can ignore its importance.

Introduction

Scientist Stephen Hawking once said "*We are just an advanced breed of monkeys on a minor planet of a very average star. But we can understand the Universe. That makes us something very special*". This specialty of ours makes us more intelligent and gives more responsibility in order to explore space for mankind on Earth. And to oblige this responsibility, Space Law was introduced.

Space law is a law which governs the space related issues, activities, programs, etc. It consists of both international and domestic agreements. Space law was basically introduced to protect outer space and other celestial bodies from any weapon, nuclear test, and keeping space from becoming a war zone between countries on earth. Space law also includes so many other laws like, Admiralty Law, International Law, Arms and Weapons Act, Aviation Law, etc.

In 1967, an Outer Space treaty was signed by 63 participants in United Nations (Outer Space treaty was signed in the year 1959, but it was properly ratified in 1967). Though, this journey of Space Law began from year 1957. President of USA introduced in United Nations the concept of a proper law to govern the activities of countries on space and related to space. This concept was in connection with disarmament negotiations. As both the super powers, USA and USSR, were succeeding in their space activities, USSR launched Sputnik 1 in 1957 and USA launched Explorer 1 in 1958, they both wanted a proper law to govern every country on space exploration. In 1959, a proper Outer Space Committee was formed to look after the space related activities and to maintain UN's Charter and other International Laws in space, which paved the way for a healthy and peaceful space exploration. In 1963, the Nuclear Test was banned. Treaty was signed as Outer Space Committee prohibited the nuclear weapon testing in space. Later in the same year UN General Assembly declared a free international interest in space exploration and its development and assigned some rules and responsibilities of nations, for example; taking individual responsibility of any destruction, responsibility of every nation of protecting and helping any astronaut, if in any trouble, regardless of his/her nationality.

Outer Space treaty is basically a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including Moon and other Celestial Bodies which forms basis of International Space Law. This treaty was enforced on 10th October, 1967. Right now 110 countries are parties of Outer Space Treaty. This treaty restricts the states from placing Nuclear Weapons of mass destruction in space, limits the states to use Moon and Other Celestial Bodies for peaceful exploration only, permit all nations to participate in space exploration but for benevolence of mankind only. This treaty does not ban military activities in space, it just restricts states to place and test nuclear weapons of mass destruction in space. Outer Space treaty is the basis of legal framework of Space Law.

There were some treaties and conventions before Outer Space Treaty, such as, Nuclear Test Ban Treaty¹ which was signed to ban nuclear tests in outer space by any country, Rescue Agreement² which was an agreement of rescuing astronauts in space, when they are in any problem, by any country regardless of astronaut's nationality, Liability Convention³ for taking responsibility of any damages caused in space by space objects like International Space Stations, Satellites, Voyagers etc., Registration Convention⁴ for registering every object launched into space, Moon Treaty⁵ was signed for governing activities related to our moon, and many more. These conventions and agreements and treaties are core base of Space Law, these conventions gave an idea to Space Law that what laws it should prevail for space activities and what should be the basis of every rule governing space activities.

Space Law takes care of each and every activity in space. When a country launches any satellite, and if that satellite goes from above any other country, then the need of space law will occur. No country can claim its sovereignty on Moon and Other Celestial Bodies because there is Space Law which checks and control these matters. No powerful country can suppress any weaker country and can't force any weaker country to stop its space exploration because Space Law protects and encourage each and every country to explore space peacefully, and no other country can stop them. But still there are some major countries which have all the resources to explore space and thus, pushing smaller countries behind this space race. Countries like USA, China, Russia, France, UK are succeeding in space exploration, which is good for their country and somewhere for mankind also, but they are not only going up, but they are simultaneously pushing small countries down. First of all powerful countries keep an eye on small countries, whether the small countries are succeeding in major space race or not. For example, when India wanted to test its Nuclear weapons, ballistic missiles, USA was keeping an eye on India's activities through their satellites to make sure that India won't get to test its weapons tested. Why

¹ Nuclear Test Ban Treaty- *Treaty Banning Nuclear Weapon Tests in the Atmosphere in Outer Space, and in Under Water*. Moscow, August 5, 1963

² Rescue Agreement- *Agreement on the Rescue of Astronauts the Return of Astronauts and the Return of Objects Launched into Space*. Moscow, London and Washington, April 22 1968

³ Liability Convention- *Convention on the International Liability for Damage Caused by Space Objects*. Moscow, London and Washington, March 29, 1972

⁴ Registration Convention- *Convention on Registration of Objects Launched into Outer Space*.- New York, December 12, 1974

⁵ Moon Treaty- *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies*. New York, December 12, 1974

so? Because USA didn't wanted India to become a powerful country. Likewise, there are so many ways by which powerful countries restrict smaller countries from developing.

Powerful countries like USA, China, Russia, have more say in international matters, specially in technologies, power, international organizational programs, etc. And they take advantage of this power and mould the decisions and policies in their favor. They become successful in making technologies but refuse to provide it to small countries even if they make an offer to provide such technologies, they make some kind of contract which makes sure that small countries don't succeed. Powerful countries sell their technologies to smaller countries but in such a higher cost that small countries won't even think to buy smart technologies from them. Space exploration is a huge thing and it needs so much money, technology, exploration in science, etc. And it is quite difficult for smaller countries to achieve that. Space Law says that it will ensures that every country have excess to outer space for the benefit of mankind but still it somewhere fails to protect small countries from being suppressed by powerful countries.

India is said to be developing country, still we have come so far in our space exploration. At starting big countries lie USA and UK did try to stop us or restrict us to get success in our scientific exploration, but now we are as powerful as USA, China, France, Russia and UK. Just take the example of Mangalyaan, we achieved our success even when China, USA, France like countries couldn't launch their voyagers successfully after so many attempts, India did it bin its first attempt only. India may be seen as a developing or weak country, but in space exploration we are even better than superpower countries.

Space Law is a gem in today's scientifically advanced era. Because of space law countries are exploring space without any fear of other countries. Anyone can start its own space company to make space related objects, satellites, spacecrafts, etc. Privatization of space exploration has also contributed so much in space exploration but it has its own cons too. The Outer Space treaty tells every legal rules and regulations for space exploration. Privatization of space is going to create a cold war type situation between private companies and UN's legal rules. For every new experiment private companies would need to get permission of United Nations and maybe in some cases the legal rules would need to get amended. This may deviate the whole strategy futile and will lead to non accomplishment desired goal/objective of legal rules. But again, Space Law

is for the best interest of space and other objects in space, it can permit or restrict any activity as it may deems fit.

Space Law has been a success in achieving its main purpose. Still if there are pros, then there are cons too. First of all the term “damages” in “Liability Convention” is not explained specifically. In article I of “Liability Convention” damages mean “*loss of life, personal injury or other impairment of health; or loss of or damage to property of states or persons, natural or juridical, or property of international intergovernmental organizations*”. In this article it is not described that the damage must be direct or indirect or moral damages too. There are a lot of damages occurred by satellites on the boundary of earth and outer space, but who will responsibility of these damages? Secondly “Liability”, in “Liability Convention”, is not specifically described that at what extent state has to bare liability. It is just briefly written that “A launching state shall be absolutely liable to pay compensation for the damage caused by its space object on the surface of earth or to aircraft flight” there is not any limit to indemnity but compensation is restricted to damage caused directly by space object. Another thing is, in article VII of Outer Space Treaty, it is said that there are responsibility of launching state that if there any harm is caused in outer space b y their object, they should bare the liability, but in realty there is only monetary compensation paid by states, but what about the harm which we as human beings cannot heal by money? We have no right to cause harm to outer space but still we directly and indirectly harming it, and in space law there is no provision to stop that, for example, depletion of Ozone layer by satellites we launch. Last but not least, Outer space has not been described in space law. We don’t know from where the Earth ends and outer space starts. We just know that we should not cause any harm to the bodies in outer space like moon and other celestial bodies but we can’t describe from where the damage in outer space starts.

Space Law should make even more efforts to support small countries in space exploration, because space exploration is for mankind, and every state, every human being has right to explore space and contribute in space exploration. Space Law should express their articles and terms more precisely and elaborately, so that there is no occurrence of any confusion. Space Law can help outer space to heal from the harms we have done. Just by taking monetary compensation from countries can’t heal outer space.

Space Law has now become an important and inalienable part of this society and it is very much needed in today's world where there are countries trying to do their best to become superpower and space exploration can be a huge door to prove the world that a country is scientifically, financially and technologically enriched.

“Space the final frontier. These are the voyages of starship enterprise. It's continuing mission, to explore strange new worlds, to seek out new life and new civilizations. To boldly go where no man has gone before”- Star Trek.

