

The International Law of Outer Space and Consequences at the National Level

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Introduction: space & law

- Law applies to human(s) (activities)
- Usually starts at national level, then international law sometimes ‘superimposed’
- Sputnik I, 1957 → UN COPUOS
- UN Declaration, 1963
- Outer Space Treaty, 1967



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Outer Space Treaty (1)

- No territorial sovereignty (Art. II) ...
... but still no boundary...!
- Currently 100 states parties, plus 27 signatories → *'Magna Charta'*
- Other general principles
 - Freedom of exploration & exploitation (Art. I)
 - State responsibility for wrongful acts (Art. VI)
 - State liability for damage (Art. VII)



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Outer Space Treaty (2)

- Other general principles – *ctd.*
 - Registration space objects & attendant jurisdiction (Art. VIII)
 - Interest of all countries (Art. I)
 - ◆ Esp. developing countries
 - Peaceful use (Art. IV)
 - ◆ Prohibition stationing & orbiting weapons of mass destruction
 - Role IGO's (Art. XIII)
 - ◆ No (formal) role for private enterprise



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Beyond the OST

- Rescue & Return Agreement, 1968
- Liability Convention, 1972
- Registration Convention, 1975
- Moon Agreement, 1979
- Further UN Resolutions
 - DBS; Remote Sensing; NPS; Space debris

Note: Special regimes – the ITU



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Rescue Agreement

- Elaborating Art. V, OST
 - Assistance to astronauts in distress
 - Safe return astronauts home
 - ↔ No detention as spies
 - Rapid return space objects to home state
 - ◆ Paid for by that state
 - Role IGO's
 - ◆ Can become 'parties' to the Agreement by virtue of qualifying as 'launching authority'



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Liability Convention

- Elaborating Art. VII, OST
 - State liability
 - Fourfold definition: “launching State” (Art. I(c))
 - ◆ Launching; procurement; facility; territory
 - Absolute vs. fault liability (Artt. II, III)
 - ◆ Damage ground & airspace *versus* outer space
 - Definition of damage (Art. I(a))
 - ◆ By a space object & by physical impact
 - Unlimited compensation (Art. XII)



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Registration Convention

- Elaborating Art. VIII, OST
 - Launching state registers space object (Art. II(1))
 - ◆ Same definition as under Liability Convention (Art. I(a))
 - ◆ If more than one launching state, still one registration state (Art. II(2))
 - 1. National register – details discretionary (Art. II(3))
 - 2. Provides details for international register
 - ◆ Kept by Office for Outer Space Affairs, Vienna
 - ◆ Minimum amount of details provided by Art. IV(1)
 - Name launching state(s); designator / registration #; date & territory launch; orbital parameters & general function



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The changing paradigm

- States makers & breakers space law
 - Secondary role IGO's
 - No (formal) role private enterprise
- New developments last decade(s):
 - ➔ New applications
 - ➔ New institutions – i.e. IGO's, 'hybrids'
- & *Private entities*



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→ National space law

■ Private entities

↔ State-oriented international space law

1. How to bind private entities to that law?
2. Does it take private interests into account?

→ National space law (& policy)

1. Control private space activities
 - ◆ Licensing – “*supervision & authorisation*”
 - ◆ Liability: derogation state-paid damages
2. Stimulation private space activities?



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Existing national space laws

■ Comprehensive in scope

- USA (though spread over various Acts!)
- Sweden, UK, Russia, South Africa, Ukraine, South Korea, Belgium, Netherlands, France
- Hong Kong

■ Dealing only with specific aspects

- *Launching only*: Norway, Australia, Brazil
- *Satellite remote sensing only*: Canada, Germany
- *Limited scope*: many, including Argentina ...



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Concluding remark

- Changing paradigm of increasing involvement private enterprise requires dealing at national level with consequences in particular of international responsibility and liability of states for such private activities, by means of national policies and (preferably) national space laws



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