

COMMERCIAL SPACE ACTIVITIES—SPACE FOR A 'SPACE LAW'

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Why Space Law?

Outer Space is the area where the atmosphere of the earth ends. The aerial sovereignty of a state ends with the atmosphere from where the space area begins.

Launching of the first sputnik by the U.S.S.R. on October 4, 1957 accelerated the affinity with the outer space of earthly people. After sputnik (First), few more states launched their satellites in the space which was a necessary call to the United Nations to regulate the space activity. The space exploration has brought the world together and the final outcome was the Space Law, which can be understood as the Law which has been made to regulate the relations amongst the states and their relations with international organizations in the sphere of outer space, celestial bodies and moon. Scientific developments are indispensable, and undoubtedly necessary, at the same time legislations to regulate the scientific explorations are most wanted need of modern time. Space Law can be understood as a unified approach of science and law.

We are watching dynamic additions in International Law. This Law is facing to multi-dimensional problems of the world society. The proper, balanced and sustainable management of global resources is the highest challenge today. With that introduction of the Private Space activities and their commercialization has hampered our ecosystem to be watched and controlled seriously. So to keep a constant watch on Ecology is also a big problem for lawyers and scientists. International law including space law is much more concerned with the maintenance of global natural resources, rivers, oceans, forests, and agriculture, wild and sea life. Relationship of living organisms and their peaceful adaptation to the environment is the main object of modern law.

The concept of Sovereignty should also be seen or understood from global welfare perspective. The exploitation of global resources - the common property, by the developed countries is also main basis behind the space law. In fact the notion of sovereignty permits use of common property for only lawful and for peaceful purpose. It is not at all related with the competence of a nation state. Every living being including human is a part of global ecological system - this is the fundamental principle on which the modern international law depends. Man

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must learn to live in harmony with nature rather to conquer it. The same view has also been supported by Professor Upendra Baxi.¹

Joint efforts in the direction

Prior to first launch of sputnik on October 4, 1957, nobody thought Space Law. In 1958 the ‘question of peaceful use of outer space’ was considered by the United Nations,² its resolution recognized ‘the common interest of mankind in outer space’. It was also resolved that the outer space shall be used for peaceful purposes only.”

The United Nations adopted the resolution and established a committee on peaceful uses of outer space and it was the first major step of United Nations to fill up the legal vacuum in outer space.³ Timely the urge for the Space Law gained momentum in International sphere and a series of treaties were entered through genuine and sincere efforts made by the U.N.O...

In December 1963 the U.N. General Assembly unanimously adopted a Declaration of Legal Principles Governing the Activities of State in the Exploration and use of outer Space.⁴ On December 19, 1966 The General Assembly through a resolution⁵ adopted certain principles which are known as the Outer Space Treaty of 1967. It was a significant step in this direction.

The Outer Space Treaty (1967)

The Treaty can be termed as milestone towards the establishment of a legal regime of outer space. The main tenets of the treaty are:

- Freedom of Exploration of Outer Space
- Non-Appropriation of Outer Space
- Use of Outer Space peacefully
- Jurisdiction and control of states over objects launched
- International Responsibilities for National activities
- Rendering help to space craft and
- International Co-operation in the use of Outer Space

The Treaty provided the basis and limitations for space use and also a framework for a number of pacts between the nations. Some of them are as under:

- The agreement on the Rescue of Astronauts, the Return of Astronauts and Return of objects Launched into Outer Space (1968).⁶
- The convention on international Liability for Damage caused by Space objects (1971).⁷
- The convention on Registration of objects launched into Space for the Exploration or use of Outer Space (1974).⁸
- The Agreement Governing the Activities of States on the Moon and other celestial bodies, 1979.⁹

Apart from these, few more declarations were adopted by the General Assembly like- the Direct Television Broad Casting (1982), Remote Sensing of Earth Resources (1986), use of Nuclear Power Sources in Space (1992) and cooperation for the Benefit of all States (1999). Still the procedure of reviewing and revamping is continuing.

All the above efforts mandate the world nations to use Outer Space with mutual cooperation, and to make Space research a joint enterprise for the benefit of mankind.

Indian Scenario

With the adoption of Indian Constitution,¹⁰ it gave rise to a welfare state with a promise that this republic will work for the welfare of people and give strength to the world peace and its development. On this humanistic theme, our Space programme was initiated about 45 years ago with the aim to promote the development and application of space technology for the socio-economic benefit of the people. Launch of Chandrayan-I, has empanelled the India amongst space powers. It is the era of Globalization; we are now open before the world. Today our space sector is open for private participation also. Such participation has given a start to commercial space activities which necessitates our own Space Law.

In the beginning, the Outer Space was the subject for the States only but the technological advancement opened new vistas of commercial activities through space area. The enormous quantum of profit available from outer space activities allured private investment. The entry of private activities gave rise to few new chapters for scientists and lawyers.

Till now the Indian Space Programme is controlled by the government of India, more or less still it is a governmental function. It is being controlled by Indian Space Research organization (ISRO). The main guideline for ISRO was to promote the development and application of Space technology for the socio-economic gain of the India. Today the space programme is under the direct charge of the Prime Minister through the Space commission and the Department of Space. The ISRO is having its 'marketing cell' which is responsible for international marketing of space products and space services. The same cell encourages private sector participation with a view to facilitate the development of domestic space commerce and industry.

Main Considerations for Space Law

Now the eternal question automatically springs out is that what space activities are doing for economic equality and progress of mankind on the earth. The 'Space' has opened a new vista for its commercial use. Huge amount of profit is being anticipated through Space activities.

The allurement of excessive profit has always brought disadvantages to the world. The cleavage between rich and the poor has widened through profit making which is the basic cause for people's unrest on this world. The Space Law

should take special care for have-nots. The real peace on the earth can only be attained by the eradication of hunger, unemployment, illness, and poverty from the earth. The balanced and sustainable distribution of global resources and maintenance of ecological balance should be main goal of space law.

As per J. Bentham’s Utility Principle, Law must be useful for the maximum. Law must increase the pleasure of the maximum and diminish the pain. The Space Law must strictly adhere to the principle. The development of space law should very carefully follow the principle of ‘Laissez-faire’. World peace and sustainable development with a view to uplift the have-nots should be the main goal for our International and National Space Law.

Commercial Space activities should not be a source of accumulation of wealth and power in few hands only, the direct and indirect benefits of Space activities should be properly and uniformly distributed among the people of the world.

The Space Law can also be developed with a view that Nations have boundaries but space is yet not divided. We all share common frontier in common. It is a hope which can fulfill the dream of a Single Nation World, having the common problems with common solutions. The concept of global society can ipso-facto solve a considerable number of evils from this earth, such as arm race, unfair economic competitions, problem of time and space etc. The Common property-the Space, must be commonly governed and used, and fruits of research in space be distributed equally.

Now the time has come when the joint and separate attempts should be made to regulate space activities. The developed countries should make joint ventures in space with the developing countries so the benefits can be shared uniformly.

The space has really provided a wide space for human development and world peace; but we have to act with a caution and the message that space must have ‘Space for all’. If the message is not read and followed properly, the space will vanish and this will ultimately leads to chaos and controversies.

Endnotes

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2. General Assembly Resolution 1348 (XII) Dated December 13, 1958.
3. General Assembly Resolution 1472 (XIV) Dated December 12, 1959.
4. General Assembly Resolution 1962 (XVIII) December 13, 1963.
5. General Assembly Resolution 2222 (XXI) December 19, 1966.
6. General Assembly Resolution 2345 (XXII) Annex December 19, 1967.

7. General Assembly Resolution 2777 (XXVI) Annex November 29, 1971.
8. General Assembly Resolution 3233 (XXIX) Annex November 12, 1974.
9. Signed on December 5, 1979.
10. The Constitution of Indian came into force on Jan. 26, 1950.