

# **CONCERNS IN STATE LIABILITY FOR PRIVATE SPACE**

## **ACTIVITIES**

**Dr. JitenderLoura**

*Assistant Director, DGCA, Govt. of India*

### **ABSTRACT**

*The developed nations in the contemporary world are engaged in different space activities. Countries like Japan, USA, and Russia have extended their capability in this field already. India is also enhancing its ability slowly. In various situations, the experiment is not confined to their state and territories and applied to some other countries. It can be dangerous for that nation and the population. The paper attempts to identify the out space activities of different states in the contemporary world. It can be claimed that every country has the authority to achieve their success in this field, but they need to keep in mind the ambit international laws and security of the other nations.*

**Keywords:** *Liability Convention, Outer Space Treaty, State Liability*

### **I INTRODUCTION**

Developed countries like America, Russia, Japan, are very much advanced in their space activities, they attempt to pull down the secrets of universe, sometimes conducting such kind of attempts, it may harm any other country or individual, it is not intentional but the country conducting such attempt must take the liability for such a harm. Accidents may happen but it does not prevent human willingness to prevail the unknown truths of the universe. Most of the developed countries have their space stations, where from they can conduct their experiments. The main concern of every state in outer space is the likely to be undertakings and liabilities. It has been recognized in many international conventions that every state must agree to take the responsibility for any damage caused by them to any other country in conducting any space activity. It also has been recognized that space activities are very risky and dangerous, it may cause damage to any other country, for that reason the third party states must be protected.

### **II RESEARCH OBJECTIVE**

The main object of this study is to provide a specific report in relation to the dimensions of the outer space activity of various states. The applicability and implementation of the rules prescribed by various international treaties and conventions in relation to the outer space activities. To draw a clear picture in respect to the role of the states and their obligations as to the outer space acts.

### **III BACKGROUND OF THE STUDY**

In recent decades, the privatization and commercialization has affected the outer space activity in a huge way, it increased the concern of the state as to their liabilities regarding space activities. Outer space treaty contains the main guiding provisions regarding the outer space conduct by the states. When outer space treaty is adopted by the United Nations General Assembly in the year 1968, USSR and United States made outer space activity exclusively as their main domain<sup>1</sup>. For comprehensive access of the liability regime to the private space activities, the international treaties as well as the relevant domestic legislations must be followed and properly applied<sup>2</sup>. At a point of time, there were no such joint efforts at international level, even there was no noticeable participation from the private sectors in space activities, but after three decades, there were not only joint efforts in international perspective but privatization and commercialization has become the leading concerns of space activities. Any outer space activity requires a good amount of investment, which was quite difficult at that period, but nowadays investors are showing keen interest in investing in space activities<sup>3</sup>. Each state, party to the outer space treaty have to follow the regulations mentioned in such treaty and have to provide compensation to the country who has suffered from the space activity of the concerned state<sup>4</sup>.

### **IV INTERNATIONAL PERSPECTIVE**

The guidelines of space activities are reflected from two main international documentaries, first one is Outer space treaty and the second one is Liability convention. These are the results of international conflicts and concerns regarding the space activity as well as the liability of the states in relation to any damage caused by them to any third country. Developed countries like Soviet union, United States are anticipating their conduct regarding space activities, by that purpose sometime any other country, may be a developing or underdeveloped country, suffers from damage and injury which may be very difficult to recover by that country. The countries conducting such activities must bear all the damage caused to the other country, proper implementation of the rules prescribed by the treaty and convention is very much necessary to avoid conflicts at international level<sup>5</sup>.

Many international summits and conventions were held regarding outer space activities during last decades, but the liability convention is considered as the most comprehensive one. Few developing countries like India, China are also doing well in this aspect and they are also concerned about the international demands and conditions regarding the experiments within the scope of outer space activities. These countries are also very much aware of the present circumstances in international phenomena and the liabilities which are imposed upon the countries conducting the outer space activities<sup>6</sup>.

<sup>1</sup> D Owen, *into outer space*, in , Los Angeles, Roxbury Park/Lowell House, 2000.

<sup>2</sup> G Westfahl, *Science fiction quotations*, in , New Haven, Yale University Press, 2005.

<sup>3</sup> J Campbell, *The inner reaches of outer space*, in , New York, Harper & Row, 1988.

<sup>4</sup> N Krulik& M Campana, *The outer space activity book*, in , New York, Scholastic, 1988.

<sup>5</sup> K De la Durantaye, S Golla& L Kuschel, "Space oddities", in .

<sup>6</sup> P Lowman & N Armstrong, *Exploring Space, Exploring Earth*, in , Cambridge, Cambridge University Press, 2002.

The liability convention provides some major liabilities upon the countries conducting space activities, few of those responsibilities are; if any state is going to launch a spacecraft, have to accept all responsibilities for possible damage. The state should be entitled for making certain reservation in accordance with the Warsaw Convention. An International Guarantee Fund is to be established for payment of compensation in relation to the damage caused by satellites.

In the year 1959, the United States dispersed a suggestion among the United Nations, which suggests that the liability at international level regarding the space activities should be summarized in such a manner which will include all the possible issues of accidents and it also indicated some priority issues.

Many issues like use of outer space circle, exploitations made by the states, legal principals, proposed legislations for states, international declarations, and many other important issues<sup>7</sup>. After circulating this proposal, it was noticed by many experts that Soviet Union was not giving much attention in relation to the norms specified in that circulated proposal; the United States has preferred not to circulate any proposal in future under its name but to rely on Hungary. These steps made Soviet Union to think further regarding the promulgating issues of the treaty<sup>8</sup>. International society is very much aware in respect of each and every conduct by any nation towards outer space, as far as the space activities are concerned, there should be a collaborating and understanding atmosphere in the international phenomena, every country must have the obligation to provide adequate compensation for any damage caused to any other country due to the conduct of their personal interest<sup>9</sup>.

United Nation has adopted a concept, which says that there is no place for sovereignty and nationality in international law or in any other law in respect of the outer space activities, as it is to be done with the interest of the entire world and the human society in a global manner, peaceful co-operation from each and every country is very much required to get success in the field of outer space activities. In this field there must a common interest for all the countries, it must be global in nature, developed countries should have more responsibilities regarding further improvement and achievements in the field of outer space activities<sup>10</sup>. In Article 6 and 7 of the international outer space activities, it is mentioned that any non-governmental organizations are also entitled to carryon their conducts regarding the outer space activity but they have to follow the liability rules which are specified by various international instruments<sup>11</sup>.

Success in any activity in relation to spaceactivity is the success for the complete human society as well as the world, not for any particular country, all the countries irrespective of their economic stability and internal affairs, must co-operate in the activity of outer space initiation and in international events regarding space activities<sup>12</sup>. Outer space denotes any area outside

<sup>7</sup> M Barone, *Astroparticle, particle and space physics, detectors and medical physics applications*, in , Hackensack, N.J., World Scientific, 2006.

<sup>8</sup> J Henderson, A Storeygard& D Weill, Measuring economic growth from outer space, in , Cambridge, Mass., National Bureau of Economic Research, 2009.

<sup>9</sup> R Nagel, *Space exploration*, in , Detroit, Thomson Gale, 2005.

<sup>10</sup>D Shayler, *Walking in space*, in , London, Springer, 2004.

<sup>11</sup> T Banta, 'The Inner Reaches of Outer Space (Book)', in *Metaphor and Symbolic Activity*, vol. 4, 1989, 285-287.

<sup>12</sup>'1988 Report of the Standing Committee on the status of international agreements relating to activities in outer space', in *Space Policy*, vol. 5, 1989, 85-88.



the sphere of earth, it means the entire universe, by virtue of that it can be considered earth as a unit and for the interest of that unit all the parts should be together<sup>13</sup>.

## **V DOMESTIC PERSPECTIVE**

In recent times, India has achieved a lot of success in the field of outer space works. India sent the first spacecraft to Mars at a very low cost. Though India is a developing country and got independence just a few decades ago but still India is doing a very noticeable task in the international phenomena in relation to outer space activities. India has adapted many policies regarding the fast development in the field of outer space activities. Indian government from the very beginning of the post-independence era, take their foot in the field of space research<sup>14</sup>. India is a party to the International space law regime; it includes recue agreement, outer space treaty, liability convention, Registration of space object convention. All the international laws are binding on India and India has to follow those international laws. Though India was not a party to the moon agreement. India has been conducting space programs for over fifty years but there are some lack of adequate legislations which are to be enacted for better results. In all the field of international co-operation India did its job and performed all the duties which are imposed upon it. Without proper international legislation, dealing with this kind of issues may cause disaster in the international society.

Like other countries, in India also space works are not only conducted by governmental institutions but with the efforts of the private organizations. Privatization and commercialization has now become very relevant within the scope of outer space works<sup>15</sup>. In the year 2012, a conference was held which is known as International Conference on Contemporary Issues. It was focused on Asian countries regarding space law issues. India hosted that conference in Hyderabad. The conference was the part of development of space laws and space jurisprudence<sup>16</sup>.

Fundamental object of all the space laws should be the proper and adequate implementation for greater achievements by considering world as a unit<sup>17</sup>. The substance of the international treaties imposes liabilities upon the states, every country has to follow this rule and make legislations in accordance with that rule<sup>18</sup>.

## **VI CONCLUSION**

<sup>13</sup> *Nicaragua v united states*, in , , 1986.

<sup>14</sup> D Chatterjee, *Indian yearbook of international law and policy* (2009), in , New Delhi, Satyam Law International, 2010.

<sup>15</sup> S Kumar, 'SPACE LEGISLATION IN INDIA: EMERGING ISSUES By Shailendra Kumar | LAW MANTRA', in *Lawmantra.co.in*, , 2013, <<http://lawmantra.co.in/space-legislation-in-india-emerging-issues-by-shailendra-kumar/>> [accessed 26 January 2017].

<sup>16</sup> in , , 2012, <<http://www.nalsar.ac.in>> [accessed 26 January 2017].

<sup>17</sup> Unoosa.org, 'United Nations Office for Outer Space Affairs', in , , 2003, <<http://www.unoosa.org>> [accessed 26 January 2017].

<sup>18</sup> Digitalcommons.unl.edu, 'DigitalCommons@University of Nebraska - Lincoln | University of Nebraska - Lincoln Research', in , , 1994, <<http://digitalcommons.unl.edu>> [accessed 26 January 2017].

**VI CONCLUSION**

In a global perspective it can be said that each and every country has a role to play in the international level as to the achievements regarding outer space work. Any success in the field of outer space is the success for the entire earth and the human society<sup>19</sup>. It is mentioned in the Origin of authorities, that states have some responsibilities regarding their every conduct in the international level, and it should be considered in a much broader sense. Every state shall play their role according to their capabilities and resources for better results in the field of outer space activities<sup>20</sup>. Sub-continental countries are also doing some appreciable works in the international field as to the outer space works<sup>21</sup>. It is necessary to comply with all the obligations from the part of each country as a global unit for better results and new achievements in the international phenomena<sup>22</sup>.

**REFERENCES**

- [1] '1988 Report of the Standing Committee on the status of international agreements relating to activities in outer space'. in , 5, 1989, 85-88.
- [2] 'Annex: Text of The Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Space Protocol)'. in , 2012, 2012, 124-146.
- [3] Banta, T, 'The Inner Reaches of Outer Space (Book)'. in *Metaphor and Symbolic Activity*, 4, 1989, 285-287.
- [4] Barone, M, *Astroparticle, particle and space physics, detectors and medical physics applications*. in , Hackensack, N.J., World Scientific, 2006.
- [5] Campbell, J, *The inner reaches of outer space*. in , New York, Harper & Row, 1988.
- [6] Chatterjee, D, *Indian yearbook of international law and policy (2009)*. in , New Delhi, Satyam Law International, 2010.
- [7] De la Durantaye, K, S Golla, & L Kuschel, "Space oddities".in .Digitalcommons.unl.edu, 'DigitalCommons@University of Nebraska - Lincoln | University of Nebraska - Lincoln Research'. in , , 1994, <<http://digitalcommons.unl.edu>> [accessed 13 February 2015].
- [8] Dunk, F, *National space legislation in Europe*. in , Leiden, MartinusNijhoff Publishers, 2011.

<sup>19</sup>Google Books, 'Meeting International Responsibilities and Ad[d]ressing Domestic Needs', in , , 1992, <[https://books.google.co.in/books?id=avaTNggGLvQC&pg=PA94&lpg=PA94&dq=Concerns+in+State+liability+for+private+space+activities&source=bl&ots=ZemgIP22f\\_&sig=eWy534WQZyE61v6V6I\\_5k3NhptY&hl=en&sa=X&ei=pJ7dVLq8CsKzuQTcgIKoDg&ved=0CD0Q6AEwBg#v=onepage&q=Concerns%20in%20State%20liability%20for%20private%20space%20activities&f=false](https://books.google.co.in/books?id=avaTNggGLvQC&pg=PA94&lpg=PA94&dq=Concerns+in+State+liability+for+private+space+activities&source=bl&ots=ZemgIP22f_&sig=eWy534WQZyE61v6V6I_5k3NhptY&hl=en&sa=X&ei=pJ7dVLq8CsKzuQTcgIKoDg&ved=0CD0Q6AEwBg#v=onepage&q=Concerns%20in%20State%20liability%20for%20private%20space%20activities&f=false)> [accessed 26 January 2017].

<sup>20</sup> F Dunk, *National space legislation in Europe*, in , Leiden, MartinusNijhoff Publishers, 2011.

<sup>21</sup> C Horsford, 'Legal Liability in Outer Space -- the New Treaty', in *International Relations*, vol. 4, 1972, 137-141.

<sup>22</sup> 'Annex: Text of The Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Space Protocol)', in *Cape Town Convention Journal*, vol. 2012, 2012, 124-146.



- [9] Google Books, 'Meeting International Responsibilities and Ad[d]ressing Domestic Needs'. in , , 1992,<[https://books.google.co.in/books?id=avaTNggGLvQC&pg=PA94&lpg=PA94&dq=Concerns+in+State+liability+for+private+space+activities&source=bl&ots=ZemgIP22f\\_&sig=eWy534WQZyE61v6V6I\\_5k3NhptY&hl=en&sa=X&ei=pJ7dVLq8CsKzuQTcgIKoDg&ved=0CD0Q6AEwBg#v=onepage&q=Concerns%20in%20State%20liability%20for%20private%20space%20activities&f=false](https://books.google.co.in/books?id=avaTNggGLvQC&pg=PA94&lpg=PA94&dq=Concerns+in+State+liability+for+private+space+activities&source=bl&ots=ZemgIP22f_&sig=eWy534WQZyE61v6V6I_5k3NhptY&hl=en&sa=X&ei=pJ7dVLq8CsKzuQTcgIKoDg&ved=0CD0Q6AEwBg#v=onepage&q=Concerns%20in%20State%20liability%20for%20private%20space%20activities&f=false)> [accessed 26 January 2017].
- [10] Henderson, J, A Storeygard, & D Weill, *Measuring economic growth from outer space*. in , Cambridge, Mass., National Bureau of Economic Research, 2009.
- [11] Horsford, C, 'Legal Liability in Outer Space -- the New Treaty'. in *International Relations*, 4, 1972, 137-141.
- [12] Krulik, N, & M Campana, *The outer space activity book*. in , New York, Scholastic, 1988.
- [13] Kumar, S, 'SPACE LEGISLATION IN INDIA: EMERGING ISSUES by Shailendra Kumar | LAW MANTRA'. in *Lawmantra.co.in*, , 2013, <http://lawmantra.co.in/space-legislation-in-india-emerging-issues-by-shailendra-kumar/> [accessed 26 January 2017].
- [14] Lowman, P, & N Armstrong, *Exploring Space, Exploring Earth*. in , Cambridge, Cambridge University Press, 2002.
- [15] Nagel, R, *Space exploration*. in , Detroit, Thomson Gale, 2005.
- [16] *Nicaragua v united states*. in , , 1986.
- [17] Owen, D, *into outer space*. in , Los Angeles, Roxbury Park/Lowell House, 2000.
- [18] Shayler, D, *Walking in space*. in , London, Springer, 2004.
- [19] Unoosa.org, 'United Nations Office for Outer Space Affairs'. in , , 2003, <<http://www.unoosa.org>> [accessed 26 January 2017].
- [20] Westfall, G, *Science fiction quotations*. in, New Haven, Yale University Press, 2005.