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THE CONCEPT OF LAUNCHING STATE: LIABILITY ON THE BASIS OF SUBSTANTIAL
INVOLVEMENT

Abstract

The Registration Convention and Liability Convention, have separate purposes and very different requirements, in spite of the fact they both create certain obligations for 'launching' states. While the Registration Convention accords to the registrant launching state the right and obligation to exercise jurisdiction and control over a space object, the Liability Convention renders all launching states potentially liable to pay compensation. Thus, it is not the fact that a state has registered a space object that renders the state potentially liable, but rather its status as a launching state. Stated differently, a state's liability as a launching state under the Liability Convention arises only as a result of the state's involvement in launching activities. The meaning of substantial involvement should be defined. If state A had built a space vehicle and state B had purchased it, paid for it and launched it, there could be no basis for stating state State A was liable. Similarly, if State A launches a space vehicle with a payload built by State B in it, even in the case of a mishap effected by the payload, State A would be held liable. However, to be just, the state of Responsibility should shift after the launching phase, with emphasis on the effective control of the state. As such, in the present scenario, this rather seemingly contradictory provisions co-exist within the domains of space law, giving rise to a plethora of complications in determining who exactly the 'launching' state would be in case of a mishap. The report maps the existing legal frameworks, both international and municipal, identifies limitations and suggests areas where more substantial and sustained reforms are needed to guarantee speedy settlement of issues arising out of a question where the determination of launching state is relevant, especially in the present era where the collaboration of various states/organization is needed to effect a space launch.