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INDIAN LIMITATION AND LIABILITY ACT

Abstract

Space Industries in India is at a very nascent stage of growth. There is a requirement to give an impetus to the growth of small and medium size organization and/or corporation to steadfastly lead India into a new realm of space faring activities courtesy of new space technologies. To optimize the potential, it is imperative that the government regulation and government control is not only minimized but shunned altogether. However, in this paper I would argue that the present space laws require an extreme level of government control which could potentially hinder any such growth unless new laws are enacted in India. Entry 97 of the union list as provided for in the India constitution will allow the federal government to enact new laws to provide a paradigm shift in the development of space industries. I would propose an enactment – the Indian Limitation and Liability Act whereby the private enterprises interested in space activities or developing or trading in space related activities would have to indemnify the Government of India in respect of any claim which may arise in the international forum against the Government of India. This law would also allow all enterprises involved in space faring activities to be sued in the domestic courts in India. It will be argued that such an enactment is necessary as under the Indian Constitution treaties entered into by the Government of India are not justifiable in the domestic courts unless a specific law with respect to the same is passed by the parliament under Article 254 of the Constitution the domestic courts shall have no power to adjudicate space activities related disputes and claims. As no such law has ever been passed by the Government of India there is high probability that the entire liability in case of an international claim could only be levied against the Federal Government and not against any domestic enterprise in the Courts of India. The limitation and liability act would provide any party/person/organization to pursue its claims against the nation of India in its domestic courts and free the domestic space industries from Government Control and Regulation. This paper would also include a detailed draft enactment to be placed before the Indian Parliament.