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RESPONSIBILITY AND LIABILITY IN INTERNATIONAL SPACE LAW AS A MATTER OF
SUCCESSION AND SEQUENCE

Abstract

The nebulous interpretations of "liability" and "responsibility" in space law have lead to a wide breadth of interpretation. In light of the recent collision of two space objects in outer space, it seems a logical and pertinent time to review these concepts. Specifically, this paper intends to set up a framework between the Outer Space Treaty and the later treaties embodying the corpus juris spatialis. It will do so through using Article 31 and 30 of the Vienna Convention to prove sequence, but not succession, in the treaties. The focus then shifts between the interrelation, or lack thereof, between Articles VI and VII of the Outer Space Treaty and the provisions of the liability convention. It is provisionally submitted that the Liability Convention refers only to Article VII of the Outer Space Treaty as a risk-shifting mechanism. Because it provides for a risk-shifting regime for space activities in relation to both space objects and objects within the sphere of sovereign control, Article VI of the Outer Space Treaty must provide for a different type of "responsibility", namely, the obligation to legislate and supervise. Therefore, interpretation of Article VI and VII of the Outer Space Treaty are mutually exclusive. However, failure to supervise under Article VI would create a legal wrong which is attributable to the state whose nationals are conducting the space activity. It is submitted that the legal obligations flowing from this separate responsibility may represent a method of binding states which are not launching states whose nationals subsequently control space objects to exercise control over its maintenance and use. This paper intends to clarify the concepts of "responsibility" and "liability" in outer space law. As such, it is hoped that it will add a significant contribution to the understanding of legal responsibilities in international space law. Specifically, the benefits of legal certainty in states' rights and obligations will 'flow down' to commercial space ventures and those states contemplating the transfer of space objects.