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LIABILITY IN RELATION TO INJURIES SUFFERED BY SPACE TOURISTS.

Abstract

In this paper, I intend to consider the liability implications in relation to physical injuries suffered by space tourists. Since commercial activities in space began with the launch of the Telestar satellite in 1962, the involvement of private entities in space has grown and there has been a demand for space tourism operators for several years: Carolyn Wincer, head of Astronaut Sales for Virgin Galactic saying in July 2007 "[i]n the last quarter, we have doubled the number of bookings taken on the same time last year".

However, space travel is still dangerous: NASA has a failure rate, which exceeds its own safety margins and reports in October 2007 suggest the first Virgin Galactic flight has been postponed until 2010 due to safety concerns. Nevertheless, the public perception of space travel, gleaned from market research, is that despite this danger, space travel is now open to the public.

As Zeldine O'Brien has pointed out: "Tourists are not mentioned in the corpus iuris spatialis, nor are they covered under the Rescue Agreement 1968. Tourism is not mentioned either, but as it is a "use" of space, it is permissible under art.1 of the 1967 Outer Space Treaty". Thus, space tourists are not specifically protected under the current space liability regime. There is debate, over whether a space tourist should be deemed an "astronaut". This is significant in the context of liability and rescue obligations. Clarification is needed as the law has not kept pace with advancing technology, resulting in "gaps" in relation to space tourism and liability protection.

This material is an interesting area for discussion as the law is developing in this area. Recent academic work has considered expanding the current international space law regime to fill these gaps utilizing some liability provisions of air law. I submit an amalgamation of relevant air law and law of the sea principles, with the current space law provisions as the best solution to fill these gaps in relation to injuries suffered by space tourists. Thus I shall consider relevant air law principles from the Warsaw Convention System, the Montreal Convention of 1999, as well as the Law of the Sea Convention, the Athens Convention and the Antarctic Treaty.