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Author: Prof. Paul Larsen
Georgetown University Law Center, United States, pblspace@aol.com

STATE JURISDICTION AND CONTROL OVER SPACE OBJECTS UNDER INTERNATIONAL
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Abstract

Issues of State jurisdiction and control over space objects are most directly governed by the Outer Space Treaty Art VIII. "A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object. . . ." This Art. VIII language is taken almost verbatim from the 1963 UNGA Declaration of Legal Principles Governing the Activities of States in the Exploration of Outer Space. The implication is that when the same language was included in the 1967 Outer Space Treaty it brought along with it several years of legal practice. Thus it was recognized customary international law when the Outer Space Treaty was adopted by the treaty negotiators in 1967. The jurisdiction and control language in Article II of the subsequent Registration Convention is different: launching states "shall jointly determine which one of them shall register the object. . . ." The Registration Convention has been ratified by only half as many States as the Outer Space Treaty. States that only belong to the Outer Space Treaty are left with a narrower scope of State jurisdiction and control. My paper will examine the intentions of the treaty negotiators, the plain meaning of the treaty and subsequent practice. The 2011 draft UNIDROIT Space Protocol requires States to exercise control over space assets in outer space when debtors default on their security interests and creditors seek the assistance of States and their court systems in order to gain control over the space assets on which they have advanced money. This requirement further tests the meaning of State jurisdiction and control over space assets in outer space. The paper will discuss the particular jurisdiction and control issues raised by the 2011 space protocol negotiations. This analysis is particularly timely in view of the planned diplomatic conference to establish the treaty instrument to regulate registry of secured interests in space assets and recovery of defaulted space assets.