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ESTABLISHING UNIVERSAL JURISDICTION ON SPACE DEBRIS

Abstract

The increasing amount of space debris has imposed ever severe threat to the safety of outer space activities, yet not any state is obliged to solve this detrimental problem under current international space law. On the other hand, the active removal of space debris faces legal barrier. States are barred to remove debris carrying others' registry. As a result, even though some states are willing to remove space debris and also have developed effective techniques to put their willingness into effect, it is illegal for them to take action towards debris registered by other states under their discretions.

To resolve such dilemma, this article seeks to establish universal jurisdiction on space debris, which means that every state shall enjoy the right to remove space debris regardless of its original state of registry. This article will demonstrate the idea by dealing with two issues: First, why should international law recognize universal jurisdiction on space debris? And how should such jurisdiction be established?

This article has four Parts. Part I examines existing jurisdictions on space debris. It concludes that only the state of registry enjoys enforcement jurisdiction over space debris. As a result, any other state's removal is subject to registry state's consent. Part II illustrates the reason to establish universal jurisdiction. The interest protected by exclusive jurisdiction has diminished when the jurisdiction is exercised over out-of-controlled space objects. In contrast, Safety interest of other states overwhelms. And there are indeed precedents in international law to limit the exclusive quasi-territorial jurisdiction under the consideration of protecting the interest of states other than the state of registry. Besides, universal jurisdiction is an effective way to solve the global space debris problem. Part III designs the structure of universal jurisdiction. Under such regime, every state is entitled to remove space debris while the state of registry has the preferential right of removal. To carry out this regime, space debris shall be defined as space objects permanently out of registry state's control, and a neutral panel shall be set up to decide whether a space object belongs to debris. Part IV sheds some light on the subsequent problem of liability caused during the removal of space debris.