

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
10th Nandasiri Jasentuliyana Keynote Lecture on Space Law and Young Scholars Session (1)

Author: Mr. Alexander Gairiseb
University of Cape Town, South Africa, agairiseb@gmail.com

RECONSIDERING THE LIABILITY REGIME UNDER SOUTH AFRICAN NATIONAL SPACE
LEGISLATION

Abstract

The Republic of South Africa is a State Party to various treaties regulating international space regime. In particular, the Republic of South Africa, acceded to the Convention on International Liability for Damage Caused by Space Objects (herein referred to "Liability Convention"), which entered into force on 1 September 1972. Therefore, certain obligations arising from the Liability Convention are bestowed onto the Republic of South Africa as a State Party. Consequently, South Africa, in order to honour the obligation bestowed on her internationally, has enacted space laws and regulations to guide her activities in outer space and the activities of private enterprises in her territory. Thus, the current legislation in South Africa which addresses the liability obligation is the Space Affairs Act No. 84 of 1993, as amended (herein referred "The Act"). This legislation will be repealed in order to ensure compliance with international legal trends in outer space and align regulatory framework to international space treaties, and most importantly, the increasing involvement of domestic and foreign, public and private-sector entities in space activities in South Africa has called for the need to repeal the current legislation. The Act uses the general language that South Africa will assume liability arising out of Treaties. Thus, the problem is that the private sector has been involved in space activities and in the process their conduct might result in causing damage which will render South Africa liable internationally. Therefore, the purpose of this paper is to re-evaluate the liability element in the Act and what the proposed Bill will introduce, by considering how South Africa meets its obligations under the Outer Space Treaty and the Liability Convention, and by also promoting commercial operations in space. Eventually, the issue of claiming damages for consequential loss under the South African law will be addressed.