

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Dispute Settlement in Space Law: Are We Ready for the Commercial Challenge? (2)

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ADDRESSING SPACE LAW DISPUTES THROUGH IMPLEMENTING THE INTERNATIONAL LAW
COMMISSION (ILC) DRAFT ARTICLES ON RESPONSIBILITY OF STATES

Abstract

As to the question of dispute settlement in space, appropriate mechanisms can be derived from the United Nations space law treaties and General Assembly resolutions regarding space activities. Primarily, the 1967 Outer Space Treaty (OST) offers provisions representing a preventative approach on disputes regarding international responsibility and liability, while the 1972 Liability Convention defines peaceful settlement mechanisms specific to cases of liability for material damages caused by a space object. However, the conduct of activities in space can result in a wide range of other disputes beyond those raised in the Liability Convention, and the means to resolve these other disputes will be the focus of this presentation.

The OST imposes a range of obligations on actors regarding their conduct of activities in space, for example: that the utilization of space be peaceful and for the benefit and in the interest of humankind, that space be free from claims of sovereignty, and that space shall not be contaminated. The failure to comply with these obligations entails the international responsibility of states and thereby raises the question of what 'the international responsibility of states' means, what its legal consequences are, and lastly how to settle these consequences among multiple actors.

Providing responses to these questions, Article 1 of the Draft Articles on Responsibility of States, codified by the ILC, defines the international responsibility entailed by international wrongful acts of states. Article 2 defines international wrongful acts as actions which are attributable to a state and constitute a breach of an international obligation. Whether the breach results in material or moral damage, it shall be repaired by the responsible state through a specific settlement procedure.

In light of the above, this paper will address the international responsibility of national space actors arising from breaches of obligations relating to space activities, with the exception of those obligations related to disputes concerning liability as raised in the OST and Liability Convention. In the absence of a comprehensive dispute settlement mechanism as defined by or referred to in the OST, I will discuss the role of the ILC Draft Articles as an applicable dispute settlement resource in the context of space activities, which can serve as a mechanism to resolve wide-ranging disputes.