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THE PECULIARITIES OF CANADA'S SPACE LAWS AND LESSONS TO BE LEARNED

Abstract

Of the more than 20 jurisdictions with national laws related to space, Canada is one of the only countries that has chosen to enact individual, activity-specific laws to regulate its non-governmental entities. To this end, Canada's corpus of domestic space law is comprised of the Radiocommunication Act (1985), the Broadcasting Act (1991), the Telecommunications Act (1993) and the Remote Sensing Space Systems Act (2005). Indeed, these four pieces of legislation (along with their subordinate legislation) are the totality of the Canadian space regulatory framework. The extreme specificity of these laws prevent them from being applied to most other space activities. Without a comprehensive Canadian space law - as is present in most other space faring jurisdictions - Canada must enact a new law for each emerging space activity (for example, on-orbit servicing, space resource exploitation, human settlement, etc.).

The main advantage of having individual activity-specific laws is that each law is tailored precisely to a single activity and can therefore include language that specifically addresses the nuances of that activity. Conversely, there are a number of disadvantages to this approach: a fragmented regulatory framework, with different laws managed by different departments; the tendency to regulate in a reactionary rather than proactive manner; the lack of legal clarity or certainty with respect to an emerging space activity, etc. One additional disadvantage is the inability to uniformly apply non-binding international standards to all space activities. Since individual departments oversee the implementation of individual laws, unique departmental priorities and preferences take precedence over international rules; implementing such rules in a comprehensive space law, however, ensures all space activities meet a minimum criteria. Indeed, for these and other reasons, the topic of enacting a comprehensive Canadian space law is the subject of much national deliberation.

The current struggles associated with attempting to improve Canada's existing space regulatory framework is a unique case study for why States, including those in the Middle East, ought to adopt comprehensive national space laws rather than activity-specific space laws. Indeed, even if a State desires to only engage in a single space activity (for example, space resource exploitation), a comprehensive national space law remains the more appropriate legal vehicle through which to regulate such an activity: it simultaneously ensures the national space regulatory framework remains broad enough to oversee and licence future space activities while it also ensures non-binding international rules, once adopted, apply to all activities.