

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
NewSpace and Space Law (7)

Author: Prof. ANKIT KUMAR PADHY
Vellore Institute of Technology, India

Dr. Divya Tyagi
Gujarat National Law University, India

Mr. Amit Kumar Padhy
SVKM's Narsee Monjee Institute of Management Studies, India

BALANCING INTERNATIONAL STAGNANCE AND NATIONAL DIVERGENCE: AN ANALYTICAL
STUDY OF CONTEMPORARY LIABILITY ISSUES FOR NEWSPACE TOURISM COMPANIES

Abstract

With rapid growth of private NewSpace tourism companies and the stagnancy of legislative development of space treaties, with the last one coming into force in 1979, the international legal framework regulating liability aspects of commercial space tourism endeavours has become obsolete. Outer Space Treaty and Liability Convention impose the liability of any damage by space activities conducted by non-governmental entities on the launching State. Article II of the Liability Convention imposes unlimited and absolute liability for any damage on the earth's surface or aircraft flight. States can thereafter claim indemnification from the private entities. It remains contentious whether small nations allowing private space launches would be in a position to compensate huge potential losses in case of any mishap. Further, considering the high risk associated with human spaceflights and naïve condition of private space tourism industry, mandating unlimited liability for space tourism activities by NewSpace companies, can prove to be a deterrent for the growth of the commercial space tourism industry. In order to fill up such gaps left by the international space law, major space faring nations have come up with their own domestic laws to regulate commercial space tourism activities conducted by NewSpace companies. The article critically analyses the efficacy of the Outer Space Treaty and Liability Convention in dealing with the contemporary liability issues posed by the commercial space tourism endeavours. The article thereafter analyses the national laws of major space-faring nations vis-à-vis contemporary liability issues fundamental to private space tourism activities like limited liability, informed consent, space insurance. It also attempts to highlight the similarities and differences between the national approaches towards the liability issues. At the end, the article argues that national space legislations are the only way forward to effectively deal with the liability aspects of space tourism, attempts to provide few suggestions to balance the aforesaid international stagnance and national divergence, and ensure sustainable development of commercial space tourism.

Keywords: NewSpace companies, commercial space tourism, liability issues, national space legislations