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NEWSPACE, TECHNOLOGY AND INTERNATIONAL LAW: HISTORICAL LESSONS FOR THE
FUTURE REGULATION OF SPACE ACTIVITIES

Abstract

The international governance of outer space was founded on an assumption that space was (at that time) a new area beyond national jurisdiction that would enable a far broader range of activities, both ‘terrestrially’ and in space itself, for the benefit and interest of all countries. Given the historical geopolitical context within which the fundamental principles governing the exploration and use of space were developed, space capability was initially viewed by many as new domain to be explored and used pursuant to international cooperation and law, irrespective of the fact this was a military and strategic issue, and indeed that still remains the case today. The multifaceted nature of space encompasses, among others, science, exploration, culture, economics, religion, human development and even the future of humanity. Of great significance has been the emergence of the so-called ‘NewSpace’, based on rapidly developing technology and miniaturisation, as well as the increasingly commercial nature of space. The expertise, initiative, entrepreneurship and ambitions of the NewSpace private sector, coupled with the increasing ‘dual use’ nature of space, open up a broad range of new possible activities that might change with way we view and interact with space, presenting opportunities for economic recovery and development, but also give rise to significant challenges within the context of the fundamental international legal principles that regulate the exploration and use of space. This paper will suggest some overarching considerations that should inform how we continue to develop appropriate and practical frameworks that are enabling for the continued progress of NewSpace developments and post-COVID economic recovery but, at the same time, shape behaviour so as to best assure the safety, security, sustainability of space activities, together with a recognition of distributive justice in the exploration and use of space.