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SPACE GOVERNANCE FOR SUBORBITAL FLIGHTS: CHALLENGES AND OPPORTUNITIES FOR
DEVELOPING NATIONS

Abstract

The aerospace industry has undergone drastic growth, encompassing commercial satellite launches, defence aviation, civil aviation, and emerging fields like space tourism, high-altitude balloons, and drone technology. Aerospace law and outer space law are separate and distinct branches of law, although they are occasionally treated as one ('Aerospace Law'). International law does not provide any clear answer to the legal challenges that might arise with the operation of suborbital vehicles as these vehicles reach the border of airspace and outer space, for which there is not yet any legal definition or demarcation. This fosters a debate over which legal regime is or should be applicable. Developing countries, such as South Africa, encounter challenges in establishing clear and robust regulatory frameworks that delineate the jurisdictional boundaries of suborbital activities. This complexity arises due to the fact that regulation of such activities falls under separate national legal frameworks governing both air and space law. As the international aerospace sector expands exponentially, ushering in new opportunities, the pivotal role of a robust legal framework becomes increasingly apparent. This framework is of paramount importance in providing legal certainty, ensuring stability, and fostering a predictable regulatory environment. The paper will shed light on regulatory frameworks governing suborbital flights in developing countries, including licensing, registration, and liability legal aspects. Additionally, the paper will focus on how some developing nations are adapting to the evolving aerospace landscape and present recommendations for effective governance in this dynamic and challenging domain.