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UNDERSTANDING PRINCIPLES GOVERNING SPACE LAW

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ABSTRACT

Though international space law is frequently described as lacking in detail, the general nature of the provisions of the existing UN space treaties is such that they cover all activities by public and private entities that can be classified as exploration or use. The absence of detailed rules governing every conceivable space activity should not be interpreted as implying that there are forms of exploration or use of outer space that are exempt from the application of the fundamental principles of international space law. This realisation is critical in understanding the current impasse in international space law-making. The UN space law regime is distinguished by principles of global cooperation and inclusion, but it only grants individual States enforceable rights of protected use. that are legally capable of implementing all states' equal freedom to engage in spacefaring activities (Arts. I, II and IX OST). In this context, it is understandable that technologically advanced States are directing their space law-making efforts towards a national interpretation of existing principles that advances their own interests rather than engaging in protracted multilateral negotiation processes that risk upsetting the basic balance of the existing space law regime that benefits them in the first place. As a result, we are seeing a clear regulatory shift in space lawmaking from the international to the national levels. This shift is marked by an increasing body of practise by a small number of States in the application of space law principles that were specifically adopted. with the goal of ensuring that all states have equal access to an inclusive environment for equal use and exploration. The current article examines how a small number of states' selective application of these universal principles may affect their interpretation.

KEY WORDS: space law, space faring activities , Space Law Treaties and Principles

INTRODUCTION

International space law is evolving from a comprehensive set of principles agreed upon at global forums to a complex network of national laws and policies navigating through various informal agreements. Rather than lamenting this shift in the legal landscape, it is important to recognise that such evolution is both natural and necessary in an ever-changing field like space law. It is critical to address these changes by first enacting multilateral agreements that establish global guidelines for future regulations. Regulations are developed and implemented at various levels of government, eventually becoming domestic law that is consistent with international standards. Although the changing dynamics may appear insignificant in and of themselves, we believe that the current framework of global space laws warrants closer examination due to its unique characteristics. We are currently witnessing the evolution of the international space law framework from an ambitious set of general principles agreed upon at the intergovernmental level at global forums to a patchwork of national laws and policies navigating around an almost equally diverse set of informal, non-binding international origin instruments.[1] This shift in the dynamics of law-making is not to be lamented, nor is it unique to

[1] (Outer Space – UNODA - United Nations, n.d) https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties.html

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space law. Indeed, it may be regarded as self-evident, if not desirable, that an inherently evolving branch of universal scope be addressed, first and foremost, through the adoption of multilateral agreements that set the course for future regulations. Typically, such regulations are developed at multiple levels of governance and then implemented. National practise in the form of domestic legislation and activities carried out in accordance with international rules are used to implement international rules.

If these changing dynamics are thus insignificant in and of themselves, the peculiarities of the existing international space law framework, in our opinion, warrant a closer examination. For changes in the global space governance framework may anticipate, or even conceal, significant changes in the content of existing space law. The regulatory shift towards national legislation, in particular, raises particular issues for the interpretation of multilateral treaties that codify universal principles applicable to all States and whose foundation is the freedom to use an inclusive environment without national appropriation. This is the case when the relevant multilateral treaties (a) were completed a long time ago, (b) have general and vaguely worded provisions that call for later agreement and practise to clarify them, (c) deal with pioneering activities carried out by or under the control and supervision of a small number of States, and (d) don't appear to offer any incentives for governments to pursue further action at the multilateral level. [2]The UN space law regime, as is widely known, is characterised by a constrained set of inclusive, equal usage principles that still appear to offer enforceable rights of protected use only to those States who are factually capable of executing their freedom to engage in spacefaring activities. This is the case when the relevant multilateral treaties (a) were completed a long time ago, (b) have general and vaguely worded provisions that call for later agreement and practise to clarify them, (c) deal with pioneering activities carried out by or under the control and supervision of a small number of States, and (d) don't appear to offer any incentives for governments to pursue further action at the multilateral level. The UN space law regime, as is widely known, is characterised by a constrained set of inclusive, equal usage principles that still appear to offer enforceable rights of protected use only to those States who are factually capable of executing their freedom to engage in spacefaring activities.[3]

In this context, it is understandable that technologically advanced countries are focusing their space law-making efforts on a national interpretation of existing international space law principles. Indeed, prominent spacefaring states are increasingly turning to domestic legislation to implement their international obligations in the way that best serves their own interests. This approach is clearly preferable to protracted multilateral negotiation processes, which, aside from being time-consuming, risk upsetting the fundamental balance of the existing space law regime, which favours spacefaring States in the first place. The 2015 US Commercial Space Launch Competitiveness Act is the most notorious example of domestic space legislation, whose adoption, if emulated in subsequent practise by other States, may well affect the interpretation of a fundamental principle of international space law. 1 The Act's final section grants private American citizens property rights to natural resources extracted from asteroids and other celestial bodies in outer space. Regardless of the intentions of the State concerned in enacting the Act, the law itself, and subsequent governmental and non-governmental practise based on it, is likely to become an important source of interpretation of the 1967 Outer Space Treaty's non-

[2] (Multilateral Treaties and the Environment: a Case Study in the ..., n.d) : https://docslib.org/doc/759730/multilateral-treaties-and-the-environment-a-case-study-in-the-formation-of-customary-international-law

[3] (International Space Law - Space Foundation, n.d) : https://docslib.org/doc/759730/multilateral-treaties-and-the-environment-a-case-study-in-the-formation-of-customary-international-law

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appropriation provision (OST). It's interesting to note that different US comments referred to American commitments abroad, including those under the Outer Space Treaty. Regarding misconceptions surrounding the adoption of the US Act, the delegate pointed out that it was incorrect to assume that the Act represented a shift in US understanding of international space law; rather, the US had consistently pressed for the legality of space resource utilisation during the protracted negotiations for the existing international space treaties. The US representative clarified the second misunderstanding, which involved the claim that the Act amounted to a unilateral approach to the advancement of space law. The delegate concluded by pointing out that the Act was not intended to advance any particular interpretation of the obligations of the United States under international law, but rather to defer discussion of this matter until a later time when US domestic law would be applied in accordance with international space law. Despite the fact that we have no reason to question the truth of these claims, they at the very least highlight the delicate balance that must be struck between a multilateral interpretation of treaty provisions that reflects the intentions of all States Parties and a potential reinterpretation of such provisions based on subsequent practise by a number of States Parties. In order to contextualise this evolution, the following linked concerns are discussed in the present paper: The Vienna Convention on the Law of Treaties (VCLT)4 regulations that govern the role of subsequent State practise in the application of a treaty as revealing its meaning; (a) the role of national space legislation in implementing the international legal obligations contained in the UN space treaties (Section 2); (b) the particularities in the evolution of the space law-making dynamics between the domestic and international governance levels that may affect the (Section 2) (Section 3) The latter scenario is undoubtedly controlled by the current norms of treaty law, as stated in Article 27 VCLT, which states that a State may not use the provisions of its internal law as an excuse for breaching a treaty. 5 We must achieve a clear understanding of the international duties that may or may not be violated in order to resolve the first circumstance, which is unquestionably a matter of State responsibility under international law. national space legislation's function. States that pass national space legislation often do so to establish a safe legal framework that will encourage the growth of and support their domestic space sector. So, it should not be surprising that "States have changed their national legal frameworks according to their individual demands and practical considerations," as stated in the 2013 UNGA Resolution on national space legislation. The primary goal of legal interpretation is to establish the conditions necessary for the efficient operation of the law and all of its parts by elucidating their real meaning and removing all uncertainties and ambiguities. The goal of this article is to first analyse the provisions of current Ukrainian legislation to determine the general approaches embodied in it and the guiding principles for the implementation of legal interpretation activities by state power bodies. Secondly, this article will present a system of measures for standardising such activity and bringing it into compliance with the requirements of law enforcement practise on the basis of contemporary achievements and developments in legal science. Philosophical dialectics, a system of general scientific and special scientific processes of cognition, which are based on the principles of objectivity, comprehensiveness, and complexity, was used to solve the given tasks. According to the research of the normative material, there is no uniform approach to the mechanism for providing clarifications of the content of normative-legal acts in Ukrainian law. The authors provide reasons for the necessity to simplify and streamline state authorities' legal interpretation processes and offer many solutions to this problem. The authors identify the primary concerns with the legislative

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definition of the fundamentals of legal interpretation based on the conducted study of the normative material. activities by governmental agencies and provide various ways to make this happen. The authors highlight the key problematic elements of the legislative definition of the fundamentals of legal interpretation based on the performed study of the normative material and offer specific recommendations for strengthening the existing legislation in this area.[4]

Space Law

The body of law regulating space-related activities is known as space law. Similar to general international law, space law is made up of a range of treaties, conventions, international agreements, decisions of the UN General Assembly, and rules and guidelines of international organisations. The five international treaties and five sets of principles controlling outer space that were created under the auspices of the United Nations are the ones that are most frequently linked to when the phrase "space law" is used. Several states also have national laws controlling space-related activity in addition to these international agreements. Space law covers a wide range of topics, including, for instance, the protection of the environment in space and on Earth, responsibility for harm caused by space objects, the resolution of conflicts, the recovery of astronauts, the exchange of knowledge about potential risks in space, the use of space-related technologies, and international cooperation. The idea that space is the domain of all humans, the freedom of exploration and use of space by all states without restriction, and the idea of non-appropriation of space are just a few of the fundamental principles that govern the conduct of space operations. In order to promote awareness, acceptance, and implementation of the international space law accords reached under United Nations auspices, the Office offers information and assistance on space law to countries, non-governmental organisations, and the general public upon request. In order to promote awareness, acceptance, and implementation of the international space law accords reached under United Nations auspices, the Office offers information and assistance on space law to countries, non-governmental organisations, and the general public upon request. On space-related legal topics like safety, sovereignty, privacy, human rights, international space debris, and aerospace privacy and security, there are legal guidelines, conventions, and other legal documents accessible. The Office also helps nations with other kinds of legal aid, such as helping them create groups for their national space and space program policies and national space policies. Last but not least, the Office provides instruction for those engaged in space-related activities and raises public consciousness by disseminating information on pertinent treaties, laws, and associated policies. The Office's staff in Vienna manages the coordination of its aid. Worldwide, both people and organizations use its web-based services. The Office also offers additional material on space law through its library, which includes works written by the Office as well as studies by the UN Committee on the Peaceful Uses of Outer Space and the UN Commission on Science and Technology for Development. The Office has established connections with numerous foreign space agencies and advises them on space legislation. Joint initiatives and programs, like the United Nations Space Debris Mitigation Action Plan, have been made possible as a consequence of these partnerships. To handle particular requirements and concerns related to space law, the Office has also arranged a number of training programs.

Space Law Treaties and Principles

International space law is being developed in the Committee on the Peaceful Uses of Outer

[4] (ACTS OF LEGAL NORMS INTERPRETATION:: APPROACHES TO ... - ResearchGate, n.d) : https://www.researchgate.net/publication/358294355_ACTS_OF_LEGAL_NORMS_INTERPRETATION_APPROACHES_TO_UNDERSTANDING_AND_LEGISLATIVE_BASIS

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Space. Five international accords and five sets of guiding principles for space-related operations have been reached by the Committee. These five treaties deal with issues such as the non-appropriation of outer space by any one country, arms control, the freedom of exploration, liability for damage caused by space objects, the safety and rescue of spacecraft and astronauts, the prevention of harmful interference with space activities and the environment, the notification and registration of space activities, scientific investigation and the exploitation of natural resources in outer space and the settlement of disputes. Each of the treaties emphasizes the idea that the use of space, the activities conducted there, and any advantages that may result from doing so should be directed toward improving the welfare of all nations and humanity, with a focus on fostering international collaboration.

TREATIES

The five United Nations accords on outer space, as they are generally known, are:

Outer Space Treaty

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, or the "Outer Space Treaty," was signed in 1967.Adopted by the General Assembly in its decision 2222 (XXI), it became effective on October 10, 1967, after it was made available for signing on January 27, 1967. The Legal Subcommittee began debating and negotiating the Registration Convention in 1962. The General Assembly approved it in 1974 (General Assembly decision 3235 (XXIX)), it was made available for signature on 14 January 1975, and it became effective on 15 September 1976.Building upon the desire expressed by States in the Outer Space Treaty, the Rescue Agreement and the Liability Convention to make provision for a mechanism that provided States with a means to assist in the identification of space objects, the Registration Convention expanded the scope of the United Nations Register of Objects Launched into Outer Space that had been established by resolution 1721B (XVI) of December 1961 and addressed issues relating to States Parties responsibilities concerning their space objects. The Registration Convention addressed problems pertaining to States Parties' duties regarding their space objects and broadened the purview of the United Nations Register of Objects Launched into Outer Space, which had been created by resolution 1721B (XVI) of December 1961. It was once more asked of the Secretary-General to keep the Register updated and to guarantee complete and unrestricted access to the data supplied by States and international multilateral groups.

"Rescue Agreement":

Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects The Legal Subcommittee examined the Outer Space Treaty in 1966, and the General Assembly approved it that same year (resolution 2222 (XXI)). The Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, which had been approved by the General Assembly in its resolution 1962 (XVIII) in 1963, served as the foundation for the majority of the Treaty, though some new sections were included. The three depository Governments (the Russian Federation, the United Kingdom, and the United States of America) opened the Treaty for signing in January 1967, and it became effective in October 1967. The Outer Space Treaty offers the fundamental guidelines for international space law, which include the following tenets: The use of space and its study must be done in the interests of all nations and in the best interests of all humankind.All States shall have unrestricted access to and use of space;State shall not position nuclear weapons or other weapons of mass devastation in orbit or on celestial bodies, or in any other way in outer space; State shall not claim dominion over, use or occupy, or otherwise appropriate, outer space;Moon and other heavenly bodies must

only be used for benign purposes, astronauts are considered to be humankind's envoys, and States are in charge of all national space activities, whether they are carried out by governmental or non-governmental organizations. Launched into Outer Space Adopted by the General Assembly in its decision 2345 (XXII), opened for signing on 22 April 1968, and went into effect on 3 December 1968 . From 1962 to 1967, the Legal Subcommittee examined and arranged the Rescue Agreement. The General Assembly adopted a consensus decision in 1967 (resolution 2345 (XXII)), and the Agreement came into effect in December 1968. The Agreement, elaborating on elements of articles 5 and 8 of the Outer Space Treaty, provides that States shall take all possible steps to rescue and assist astronauts in distress and promptly return them to the launching State, and that States shall, upon request, provide assistance to launching States in recovering space objects that return to Earth outside the territory of the Launching State.

Liability Convention

The General Assembly adopted the "Liability Convention," or Convention on International Liability for Damage Caused by Space Objects, in its decision 2777 (XXVI), on March 29, 1972, and it became effective on September 1, 1972. From 1963 to 1972, the Legal subgroup debated and arranged the Liability Convention. The General Assembly approved the agreement in 1971 (resolution 2777 (XXVI)), and the Convention became effective in September 1972. A launching State shall be completely liable to make compensation for damage caused by its space objects on the surface of the Earth or to airplanes, and liable for damage due to its defects in space, according to the Liability Convention, which expands on Article 7 of the Outer Space Treaty. The Convention also outlines processes for the resolution of harm claims.

Registration Convention

The General Assembly adopted the "Registration Convention" in its decision 3235 (XXIX), which was made available for signing on January 14, 1975, and which went into effect on September 15, 1976.

The "Moon Agreement

The "Moon Agreement," which was approved by the General Assembly in its decision 34/68 and which was made available for signing on 18 December 1979, became operative on 11 July 1984. The Legal Subcommittee examined and developed the Moon Agreement between 1972 and 1979. In decision 34/68 from 1979, the General Assembly approved the Agreement. The fifth nation, Austria, did not ratify the Agreement until June 1984, enabling it to go into effect in July of that year. The Agreement reaffirms and elaborates on many of the provisions of the Outer Space Treaty as applied to the Moon and other celestial bodies, providing that those bodies should be used exclusively for peaceful purposes, that their environments should not be disrupted, that the United Nations should be informed of the location and purpose of any station established on those bodies. The Agreement also stipulates that the Moon and its natural resources are the shared legacy of humanity and that, when such extraction is about to become viable, an international system should be created to regulate it.

ACCESSING SPACE TREATY RESOURCES ONLINE (ASTRO)

At the end of the year 2022, the Office for Outer Space Affairs launched a new database, called Accessing Space Treaty Resources Online (ASTRO). The platform serves as a database of international space instruments, including five United Nations treaties on outer space and their ratification status, and principles adopted by the General Assembly.

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CONCLUSION

Even though the changing dynamics might not seem important in and of themselves, we think that the present system of international space laws warrants greater investigation because of its particular features. This change in the way laws are made is not to be regretted, nor is it specific to space law. Because major changes to the substance of current space law could be anticipated by, or even concealed by, changes to the global space governance structure. This is the case when the relevant multilateral treaties (a) were completed a long time ago, (b) have general and vaguely worded provisions that call for later agreement and practise to clarify them, (c) deal with pioneering activities carried out by or under the control and supervision of a small number of States,

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