

The background of the cover is a vibrant night sky. It features a dense field of stars, some with prominent four-pointed diffraction patterns. There are also soft, glowing nebulae in shades of blue and purple. In the lower portion of the image, the dark silhouette of a castle with multiple towers and spires is visible against the starry background. The overall color palette is dominated by deep blues, purples, and whites from the stars.

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INDIA'S SPACE LEGISLATION AND THE DIRE NEED FOR NEW SPACE LEGISLATION

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Abstract

Space laws are laws that deal with and regulate space-related conditioning. They are composed of transnational agreements, covenants, and conventions, judgments of the United Nations General Assembly, and the rules and regulations of several transnational associations. Space law deals with a variety of issues, including space, the use of space-related technologies, and transnational cooperation. India started investing in space wisdom and technology in the 1960s, but its space conditions are not yet regulated by specific regulations. This paper examines the legal framework and policy initiatives taken by the Indian government to regulate space activities, as well as the challenges and opportunities for the future development of space law in India.

Keyword- Space legislation in India, New space law, Space Regulations in India.

I. Introduction

A. Definition of Space Legislation

Space law refers to the body of legislation that governs space-related activities. Similar to general international law, space law is made up of a variety of treaties, conventions, international agreements, decisions of the UN General Assembly, and rules and guidelines of international organizations.³⁰ The word "space law" is most commonly associated with the rules, principles, and standards of international law found in the five international treaties and

five sets of principles governing outer space established by the United Nations. Along with these international agreements, many states also have national laws that regulate space-related actions.

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 humankind, 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 basic principles that govern the conduct of space activities.

B. Overview of Space Legislation in India

India's space programme is entirely under the authority of the Indian government. The development of the space industry is the only important reason that many nations have government organizations in charge of space policy. Prior to the coming state's independence in 1947, India recognized the development of space capabilities as one of its aspirations to realize its socio-profitable development aspirations. Recently, ISRO has started asking the private sector to participate in a number of contracts. Additionally, we're starting to alter some technologies.

However, there are limitations in India. The commercial use of space technology is only

³⁰ United Nations Office for Outer Space Affairs, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/index.html> [18/03/2023]

now starting. Critical situations have not yet been reached through private sector involvement. Governments must pass public space laws in order to meet the needs of space commerce and efficiency. The majority of India's space effort comes from the government. It may be uncontested that the government's previous strategy of keeping space conditioning as a controlled sector worked in the larger environment, but accelerating the commercialization of marketable space technologies will unavoidably yield fruit. This money and technology will require fierce diligence from the private sector. Thus, a vital tool for India to encourage balanced development and achieve low-cost domestic space trade and artificial eventualities is applicable legal regulation. "Space law assists governments in resolving legal disputes relating to objects launched into space and what occurs to or for them."

Space has historically been a government privilege in India. Because it assists in launching objects onto the route and enables the private sector to provide services that are marketable, it is only available to the private sector. Governments will cover everything that travels into space, but they must be careful not to overregulate. It is time for India to establish a presence in the global space society. All countries started looking further after the Soviet Union's 1957 Sputnik satellite launch. Since gaining its freedom, India has focused on creating, launching, and using personal technology to operate satellites. The Indian Space Research National Board, now known as the Indian Space Research Organization, pioneered in space exploration in 1962. (ISRO). When India sent Chandrayan-1, the first unmanned spaceship in history, to the moon in 2007, it received a prize. The National Aeronautics and Space Administration (NASA), the European Space Agency (ESA), Bulgaria, and several other agreements require India to define and restructure its public space policy. As a consequence, over the past half-century,

ISRO has launched more than 300 satellites in 33 nations³¹. It's an impressive accomplishment. ISRO's satellite launches have not only boosted India's space program but also provided valuable services in the fields of communication, weather forecasting, navigation, and disaster management. ISRO has become a major player in the global space industry and has established itself as a reliable and cost-effective launch service provider.

II. History of Space Legislation in India

A. Early Space Legislation

Since the creation of the Department of Space (DOS) and the Space Commission in 1972³², the Department of Space has been responsible for overseeing all aspects of India's space program's administrative operations. Previously, the Department of Atomic Energy was in charge of those operations. Up until lately, India never felt the need for national space laws or policies because it was considered more of an international problem than a domestic one.

India never gave a space legislation any thought because of the following two factors: First off, India did not previously have a private industry that could finance its plans for space exploration. The private sector didn't demonstrate any interest in investing in India's space programme until after they realized how lucrative it could be.

Second, the Indian Space Program did not initially intend to conduct space exploration or even launch manned or unmanned spacecraft; however, this has since altered as India has launched missions to the moon and Mars. India believed there was no need for distinct domestic space laws because it was already a party to many international space treaties.

³¹ <https://timesofindia.indiatimes.com/india/isro-milestone-300-satellites-from-33-nations-put-in-space-in-20-years/articleshow/72268186.cms> [17/03/2023].

³² [https://www.isro.gov.in/DOS&ISROHQ.html#:~:text=Indian%20Space%20Research%20Organisation%20\(ISRO,under%20DOS%20in%20September%201972](https://www.isro.gov.in/DOS&ISROHQ.html#:~:text=Indian%20Space%20Research%20Organisation%20(ISRO,under%20DOS%20in%20September%201972) [18/03/2023].

ISRO,

B. Current Space Legislation

It would be surprising to learn that India still lacks a suitable space law in light of the vast developments in the space sector and the emergence of the private sector. There are a few laws in India that deal with space uses. These are the Remote Sensing Data Policy of 2011 and the Satellite Communication Policy of 2000 (SATCOM)³³. (RSDP, 2011). A significant portion of the economy and people now have access to the wireless spectrum of Indian satellites, such as INSAT, thanks to SATCOM. The Department of Space (DoS) established the standards, guidelines, and processes for the policy's implementation because the policy did not outline how it would be carried out. The Indian law governing remote sensing is the RSDP, 2011. According to the policy, the National Remote Sensing Centre (NRSC) has been given the authority to acquire and disseminate all satellite remote sensing data in India from both Indian and foreign satellites for development reasons. Furthermore, the government retains the right to impose control over imaging tasks and data distribution from Indian remote sensing satellites when it is believed that the government's national security, international responsibilities, and/or foreign policies require it. These rules are expected to be replaced shortly. ISRO released the Draft Space Based Communication Policy of India - 2020 (Spacecom Policy - 2020) in October 2020³⁴, followed by the Draft Space Based Remote Sensing Policy of India - 2020 (SpaceRS Policy - 2020) and Draft Norms, Guidelines, and Procedures for Implementation of Space RS Policy - 2020 in November. (SpaceRS NGP - 2020). The regulations barely scratch the surface of space law. It could be argued that comprehensive legislation was never required because the government managed the space industry directly. However, with the

establishment of IN-SPACE, the private sector will have access to this industry, necessitating extensive legislation³⁵. Many countries, including Belgium, France, Japan, the Netherlands, and the United States, have already enacted national space legislation in order to sustain privatization. In the absence of domestic legislation, international legislation takes precedence. Article 51³⁶ of India's Constitution requires the state to uphold foreign law and treaty obligations. There are several space law treaties, resolutions, and other papers to which India is a signatory. For example, Article VI of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies holds countries accountable for all activities in outer space, whether carried out by their space agency or a private player. In other terms, all activities in space are considered national. Any action taken in space by a private organization is attributed to the government of the state in which it is registered. As a result, the Government of India would be liable for any mishap caused by the actions of any commercial party.

III. India's New Space Policy

A. Space Activities Bill

The legislature should draft legislation to govern the area in question. To decipher grey areas, strict guidelines must be implemented. The ideal legislation must be consistent with India's international responsibilities and, ideally, include non-binding guidelines. Furthermore, the law will need to address the issue of restricting the use and dissemination of ISRO intellectual property to private Indian ventures. In order to address the issue, the Government of India developed the Space Activities Bill in 2017. On November 21, 2017, the bill was posted on ISRO's website, and stakeholders were allowed

³³ Satellite Communications Norms, Guidelines and Procedures, https://www.isro.gov.in/media_isro/pdf/satcom-ngp.pdf.

³⁴ Hindustan Times, [https://www.hindustantimes.com/india-news/isro-releases-draft-policy-to-regulate-space-communication-by-private-players/story-hcrB1xAKZDFNqdl0y4Gat\].html](https://www.hindustantimes.com/india-news/isro-releases-draft-policy-to-regulate-space-communication-by-private-players/story-hcrB1xAKZDFNqdl0y4Gat].html) [15/03/2023].

³⁵ Martand Jha, <https://www.firstpost.com/india/from-making-provisionsfor-private-players-to-regulating-satellite-use-why-india-needs-a-new-space-law-10020521.html>.

³⁶ INDIA CONST. art. 51.

one month to submit comments. By December 12, 2018, the government was working on incorporating different stakeholders' suggestions. The Department of Space told the Lok Sabha in a press release dated June 26, 2019 that the bill is undergoing pre-legislative consultations. The Government of India launched the Aatmanirbhar Bharat program on May 16, 2020.

By June 24, 2020, the Union Cabinet had approved space sector reforms "aimed at boosting private sector participation in the entire range of space activities." ISRO Chairman K Sivan stated on July 5, 2020, that two documents, a space policy, and the Space Activities Bill, were nearing completion. The Bill was sent to the Prime Minister's Office on August 20, 2020. However, the Bill has yet to be passed by the Indian Cabinet. As a result, it is not included in the most recent 2021 Budget Session procedures of the Indian Parliament. The new Bill is not accessible to the public. As a result, a review of the 2017 Bill would have to serve. The Bill was founded on the International Law Association's (ILA) Model Law on National Space Legislation for the Committee on the Peaceful Uses of Outer Space (COPUOS) and other national laws. According to the Bill's explanatory note, national space law is required to "support the overall growth of space activities in India." It's also worth noting that private organizations will be governed in accordance with India's international treaty responsibilities. The majority of the provisions in the draft legislation are extensions of and in accordance with the Model legislation. However, some sections of the legislation are contentious³⁷. For example, the indemnity provision in Section 12 is a welcome move, but its requirement should be reflected when a license to participate in space activities is given to an entity.

In other words, when a private organization is given a license, it must have sufficient financial

resources/insurance backing to indemnify the Government of India in the event of a mishap. Section 25 also mentions intellectual property rights (IPR) and states that all IPR in space must be protected "under any law...with the primary goal of safeguarding the national interest." It would make sense for the Indian IPR regime to extend to such organizations. Furthermore, the question remains, how would national interests be protected? These are ambiguous words that should be defined. Other issues include Section 26, which grants the Government of India complete immunity for all actions done in good faith "in pursuance of any space activity under this Act." This is a vague clause that absolves the government of any liability. The Bill also does not specifically address space junk. It imposes the responsibility to maintain the space environment clean, but it is ambiguous once again. It is also proposed that an annexure with a draft contract between the space service provider and their customer be added to the bill. This would save small businesses from having to pay large sums of money in legal costs for drafting agreements.

B. Critical Views

While the suggested policy changes are a positive step, they must be accompanied by comprehensive legislation. For a mature space program like India's, space is a great commercial venture. Continuous R&D is required, which can very well be done by private companies. However, before proceeding, the legal situation should be clarified. India is a signatory to the UN Treaties on Outer Space Activities, and domestic organizations must be governed by local laws. Dr. Jitendra Singh, Union Minister of State for the Department of Space, shares this view.

Finance Minister Nirmal Sitharaman stated that private companies shall be given a fair playing field in "satellites, launches, and space-based services." They will also be permitted to use ISRO facilities and other pertinent assets to boost their capabilities. Future initiatives for planetary

³⁷ ISRO, https://www.isro.gov.in/media_isro/pdf/Publications/Vispdf/Pdf2017/sec_king_comments_on_draft_space_activities_bill201710.pdf.

exploration, outer space travel, and so on will be available to the private sector as well. IN-SPACE was created in response to these recommendations. However, the nation still requires proper legislation. The legislation should be introduced and enacted as soon as possible to ensure that India does not fall behind in the new space race³⁸.

V. Conclusion

After reviewing the international treaties and domestic legal and administrative policies governing satellite communications, it is clear that the policies merely outline what the Indian government hopes to achieve; however, the dream of 'Digital India' and India becoming a space superpower cannot be realized in the absence of any legal obligations. A strong legal framework would boost investor confidence, attract FDI and new technologies, reduce administrative and regulatory uncertainties, and provide clarity on stamp duty, registration requirements, insurance, property transfer, contractual obligations, space debris liability, and intellectual property rights related to space-related issues, and foster space entrepreneurship by providing a level playing field to private entities.

It is past time for India to implement stringent space legislation. According to Articles 51 and 253 of the Indian Constitution, India shall provide necessary and pertinent laws that will not only foster and promote public-private partnerships but will also channel more indigenous knowledge. It should be mentioned that once the bill has been passed and enacted, the government should not overregulate the private sector. Another result of this partnership is that India will be forced to take an active role in foreign direct investments connected to technology and other spatial issues. The more permissive the regime, the more likely it is that the country will attract

investment in this field, propelling India to the forefront of the international space industry.

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