

BURNISHED LAW JOURNAL*Siddhartha Mitra***Significance of the Convention on the Registration of Objects Launched into Space: A Critical Analysis****Abstract**

Space - an unending frontier. From the early 1950s, humanity has been bent on exploration of space through manned and unmanned probes. Unlike any other form of exploration however, space exploration entails a lot of parts, not all of which make it back to the Earth. Every new launch adds to the already growing population in the near-Earth orbit as well as the orbit around other celestial bodies. Given the amount of investment which goes behind the development and operations of a space mission, it is imperative that all possible steps are taken to ensure the mission survival of the space object.

This is exactly where the Convention on the Registration of Space Objects, 1974 comes into the picture. It was designed with the motive for registering all space objects being launched into space so as to be able to track the objects and provide the same information in order to prevent collisions during future space missions. Having had this ideology, the convention faced the trauma of being a loosely worded international convention not having the power of direct intervention in cases of non-fulfilment of registration of space objects as well as allowing multiple interpretations of its prescribed rules and regulations.

This is where this research paper comes into the picture. This paper analyses the working of the Convention on the Registration of Space Objects, 1974 as well as the problems faced by nations in trying to implement it to give a comprehensive picture as to whether the Convention is valid in the modern world and if so, to which extent.

Keywords: Convention on the Registration of Objects Launched into Outer Space, Contemporary Applicability of the Convention of 1974, Challenges faced on implementation of 1974 Convention

Introduction

The delegates at the United Nations General Assembly ratifying the Convention on the Registration of Space Objects in 1974 would have had absolutely no idea about the dawn of a new age which they were heralding. A dawn, the contemporary significance of which, would be analysed by this paper.

With the dawn of the glorious space age, came its own set of problems. The near earth orbit started getting cluttered with thousands of debris. As per NASA, there are currently 15,000 catalogued objects in space orbiting Earth while more than 6,000 objects are uncatalogued such as pieces of launch vehicles etc. Most of the reason why these objects can be tracked and safe space missions planned is due to the mandatory register which is maintained by the United Nations Office for Outer Space Affairs under the Convention.

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The Registration Convention is an elaboration of two provisions of the 1967 Outer Space Treaty, which is the foundational and most adhered to international agreement that laid down fundamental principles for global governance of outer space and space activities. Firstly, Article V of the Outer Space Treaty requires States Parties to safely and promptly return astronauts in distress during an emergency landing to the State of registry of their space vehicle. Secondly, Article VIII entitles and requires the State of registry of an object launched into outer space. After 41 years of entry into force of the Registration Convention, it seems appropriate to objectively assess the efficacy of this international instrument which is important for global space governance, particularly from the perspective of its effectiveness in rapidly expanding space activities and space players.

It is this particular setup that this paper wishes to probe in order to bring out the unknown significances of the convention which will ensure its survival for generations to come.

Whether the Convention on the Registration of Objects Launched into Space has any significance in the contemporary world?

The importance of outer space was never underestimated by the International Community. In fact as early as in 1962, the first international treaty governing space objects was ratified named as The Principle Governing the Activities of the States in the Exploration and use of outer space. In all totality, a grand sum of nine treaties have been signed since then dealing with utilization of space resources through space objects and liability for the same. These treaties included the Convention on Registration of Objects Launched into Outer Space as well as the Convention on Liability for Damage caused by Space Objects.

What is to be understood herein is the fact that the convention ensures States are held liable for damages caused due to launching of space objects either launched for them or launched by them. To that effect, it is pertinent to take a look at Article II(2) which speaks about resolving liability in situations where two or more States are involved with a particular space object. Article II(2) states-

“Where there are two or more States in respect of such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this Article, bearing in mind the provisions of Article VIII of the Outer Space Treaty) and without prejudice to any appropriate agreements concluded among the launching States on jurisdiction and control over the space object and over any personnel thereof.”¹

What this essentially portrays is that in circumstances where there are two or more states, it will be the State registering as per the inter-party agreements between them which shall be held liable for damages caused due to the particular space object. It is to be noted, that as per Article I of the Convention, a space object refers not only to the payload i.e. the satellite or object being launched into orbit, but also, the launch vehicle.

When the Convention for the Registration of Space Objects merges with the Convention on Liability for Space Objects, the contemporary significance of the treaty comes into the forefront. A combined reading of Articles II to IV of the Convention on Liability for Space Objects shows that in situations where the State registering the object and the State launching it are different, there are certain liabilities which cannot be removed from the burden of the State launching the object. These liabilities come in the form of the object

¹ Article II(2) of the Convention on the Registration of Space Objects, 1974

damaging something on the ground during launch or hitting another aircraft in flight. Further, in situations wherein the Space object damages another space object, the circumstance defines the liability type and extent.

In order to fully understand my views above, it is necessary to take a look at the relevant provisions of International law. Article II states that-

*“A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft flight.”*²

Similarly, Article III reads as follows-

*“In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.”*³

Finally Article IV states-

“1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:

(a) If the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability to the third State shall be absolute;

(b) If the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1 of this article, the burden of compensation for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of

² Article II of the Convention for Liability of Space Objects, 1971

³ Article III of the Convention for Liability of Space Objects, 1971

these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States which are jointly and severally liable.”⁴

The Hague Centre for Strategic Studies while describing the growing vastness in the applications of Space objects wrote on the increasing militarization of space. It stated-

“... an increasing number of actors have access to space. Up till now, none of these actors has stationed weapons in space. However, a combination of rapid advances in technology, rising space budgets and dedicated efforts by numerous state and non-state actors to gain a space capability may produce serious threats to the future security environment. Moreover, the conduct of contemporary conventional warfare increasingly depends on space based assets for logistics support, reconnaissance, and command & control. Some authors expect space to become the locus of future warfare.”⁵

The reason this report is pertinent is because it forms a part of several reports that highlight the growing traffic of objects being launched into Space and weapons being created to destroy them in times of war. Over time, this has resulted in the creation of a debris field perilous to space objects being launched and in orbit. As per a National Geographic report-

“More than 23,000 known man-made fragments larger than about 4 inches and an estimated 500,000 pieces between 0.4 inches and 4 inches across join those larger fragments.”⁶

Further, what is more alarming is the fact that while the 23,000 fragments can be tracked, the 500,000 small fragments are impossible to track due to their size. Moreover, when they collide, it is not just a simple bump. Travelling at more than 13 times the speed of an average bullet, it is powerful enough to blow a hole clean through the object with which it impacts. The best example can be the collision of one of these tiny space objects with the International Space Station resulting in damage to the highly reinforced window.

It is exactly this reason why the Convention on the Registration of Objects Launched into Outer Space is so important in the contemporary world. It enables the laying of liability and

⁴ Article IV of the Convention for Liability of Space Objects, 1971

⁵ Space-Based Warfare by The Hague Centre for Strategic Studies (<https://www.jstor.org/stable/resrep12606>)

⁶ <https://www.nationalgeographic.com/science/space/reference/space-junk/>

responsibility on appropriate parties due to space accidents. It also makes the tracking of space objects easier which in turn allows safer launching of future space objects.



Conclusion

*"Space is for everybody"*⁷. These words by Christa McAuliffe, the first American civilian to go to space was never more relevant in history. What started out as a simple competition to escape the Earth's gravity has turned out to become a new regular incident as countries all around the world launch objects into space for a variety of reasons. The purpose of the Convention of the Registration of Objects Launched into Outer Space, 1974 as already mentioned above is to enforce proper liability and responsibility amongst nations for the damages caused to others due to their space programs. As technology continues to develop and more and more nations join the challenge of exploring the universe, the convention may well turn out to be the guiding light for peaceful resolution of future disputes on space objects.



⁷ Stated by Christa McAuliffe- the first American civilian to go to Space

