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Space Law in India: A New Development in the Field of Law

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A B S T R A C T

Space is a unique concept. The advancement of technologies to connect with outer space has been in the developing process for decades. The whole discovery of outer space will take more time than we can anticipate. But it raised questions with regard to the existence of society in outer space. Where there is society, there is a law, contributing to the factor of the possibility of existence of society in outer space, several policies and laws have been drafted to adapt such circumstances. This paper will focus on the approach of the government in development of space laws and policies.

Keywords: Space Law, Legal, Rules

INTRODUCTION

For decades, space has enhanced general interest. Because of advances in technology, nations face intense competition for the next space conflict. The developed nations have also taken steps to consolidate their place in the outside world. India built a historical record by launching 104 satellites on February 15, 2017.[1] This launch confirms the emergence of India as a secure, affordable launching state in the private international space market, with a tremendous return to the space industry in the region.[2] The country has entered the age of privatisation and marketing, developing space exploration capabilities and scientific discovery, marketing its satellite building ability and offering launch services from an ISRO Polar Satellite Launching Vehicle.[3] Space, for years representative of the entire public sector, is starting to open up in India to the private sector, provided developments in technology and the government policies that have permitted private companies to provide orbiting facilities, ISRO supplies of equipment, launching commercial satellites, etc. ISRO also plans to enable private companies to set up their own Sriharikota launch pad to launch their spacecraft and/or rockets.[4]

It must be said that no private company is involved in the space industry in India. Instead, only the private sector is responsible for a large portion of the output of satellites and rockets. Its function, however, is confined to component and subsystem suppliers. There is a lack of technology or necessary resources to meet that demand, conduct space-based space ventures or provide space-based services to domestic or foreign customers as the United States-based aerospace manufacturer and SpaceX corporation.[5] Strong regulatory mechanisms and an interconnected framework to instil consumer trust in private space companies.

[1] https://www.theguardian.com/science/2017/feb/15/india-launches-record-breaking-104-satellites-from-single-rocket
[2] https://www.isro.gov.in/isro-crosses-50-international-customer-satellite-launch-mark.
[3] http://www.eurasiareview.com/28022017-antrix-providing-space-products-and-services-to-international-clients-analysis/
[4] https://www.jagranjosh.com/current-affairs/isro-to-allow-private-sector-to-set-up-own-launchpad-at-sriharikota-1596188569-1
[5] https://www.spacex.com/

BRIEF HISTORY

India's space programme was established in 1962, after attaining independence from the British. With the establishment of the India space research organisation (ISRO), in 1969 the programme received its first stimulus. The Indian government created in the mid-1972 the Space Commission of India and the DOS. In September 1972, the ISRO was authorised under DOS administrator. The first satellite was launched by India in 1975. The space industry of India has come a long way since then.[6]

In 1967, India signed, though it was not implemented until 1982, the Treaty on the Principles for State Operation in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty). India was also a member of the Space Objects Convention in 1979 and ratified the Convention on astronaut rescue, astronaut returns and object return that was launched in that year. India joined, in 1982, the Launch in Outer Space of the Convention on Object Registration and signed the Moon and Other Celestial Organization Agreement.[7]

INTERNATIONAL TREATIES ON SPACE LAW

The launching in 1957 of Sputnik-I, led to the creation of the Committee on Peaceful Use of Outer Space ('COPUOS') by the United Nations (UN), which hereafter formed two subcommittees:

- Legal Sub-Committee
- Scientific and Technical Sub-Committee

COPUOS was the forbearer for the establishment of the five treaties of international outer space law:

- Outer Space Treaty, 1967: The Treaty is the foundation of international space law with 110 ratifications and 23 signatories.[8] It guarantees that outer space is open for the profit and public interests of all nations and humanity to be used and explored by all Governments. States are prohibited from putting weapons of mass destruction in orbit and/or outer space, in any other way, on celestial bodies. With astronauts being seen as human envoys, the state is only accountable for any harm caused by government or non-governmental organisations which are deployed in space by restricting use of the moon and other celestial bodies only for peaceful purposes. In addition, the Member States shall not make any claims of sovereignty in the outer universe.
- Rescue Agreement, 1968: Under the provisions of the agreement, the Signatory States shall, in the event of any crisis, disaster or emergency and accidental landings in a territory of the jurisdiction of a signatory State or in any place outside the competence of any personnel, be required to provide the appropriate help for the rescue of astronauts and for the safest return of spacecraft materials.[9]
- Liability Convention, 1972: It is founded on the concept that the state that lances any space object from its territory is liable for damage caused to the earth's surface, to aircraft or for any other outer space damage. It should be noted, nevertheless, that if space objects are launched from a private individual, they are internationally held responsible, not the private individual, but the state of which he/she is a member.[10]
- Registration Convention, 1975: The Convention's purpose is to ensure that the space environment is used properly. It involves the initiating State to register the space object to be started in or beyond the Earth, by means of a registration in the relevant register kept by the State, which the Secretary-General of the United Nations shall be told. The Secretary-General of the United Nations shall provide each registry state with information as soon as feasible regarding the name, date, territory or launch site, designator, space object feature and registration number, orbital parameters and any further data required.[11]
- Moon Treaty 1979: The treaty specifies that the exploration and use of the moon and its natural resources should be conducted to the advantage of each nation. It ensures the heavenly bodies are only used for peaceful purposes and does not disrupt the atmosphere. Moreover, any State Party, which is not authorised by it to learn about the accident, compelled or unauthorised landing on the Moon of a space object, shall notify the launching State Party and the United Nations Secretariat directly.[12]

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[6] https://www.lexology.com/library/detail.aspx?g=ad45cd5f-488a-437f-9edd-b1d30df4630a#:~:text=India%20signed%20the%20Treaty%20on,was%20not%20ratified%20until%201982.&text=Research%20and%20development%20in%20the%20space%20sector%20is%20primarily%20realised%20through%20ISRO.

[7] *Ibid.*

[8] https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html

[9] https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/rescueagreement.html

[10] https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/liability-convention.html

[11] https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/registration-convention.html

[12] https://www.mcgill.ca/iasl/centre/research/space-law/moon-treaty

SPACE PROGRAMME INITIATED BY INDIA

One of India's major successes seems to be its capacity to create its own satellites, launch systems and ground control technology to commercialise not just Indian satellites. Indian Prime Minister Narendra Modi revealed India's plan to put a man on the moon by 2022 to add to the vision.[13]

The ISRO has been leading the industry, providing a range of services covering imaging and navigating, working on a number of social and economic initiatives possible in the last 50 years.[14]

It released a lunar orbiter successfully in the first quarter of 2019 and expects to launch another autonomous moon flight in 2008.[15] But maybe, the highlight of ISRO's achievement up to now is putting an orbitalist around Mars, more than four years later, on its first flight in September 2014.[16] The cost was just USD 74 million.[17]

SPACE ACTIVITIES BILL, 2017

India's Department of Space has released the 2017 Space Activities Bill, a draft bill.[18] The first point to remember about the bill and its nature is that it is generally and comprehensively, possibly indicative of all earlier legislative efforts to tackle the technological innovation and changes it would cause in society. The Bill adopts to some degree the Off-the-Shelf Model Law Law solution, developed in a given context by the International Law Association.

In the potential need for space for social interaction and other technological endeavours, the private sector would have an important role to play, with an influence on society. Though, it gives the state a lot of discretion to regulate space access. The ISRO calls upon the private sector to build up to 30 satellites for the future. However, the Bill explicitly anticipates a kind of public-private relationship within the sector, with the government working together with the private sector to achieve its future strategic objectives.

POLICIES IN INDIA

- Technology Transfer Policy: It represents a clearly established and structured strategy for transferring the know-how of the Indian Space Center technologies and products designed to foster the Indian industry and its commercial use of space projects. It encourages the provision, in order to achieve substantial industrial participation, of different goods and services relating to space systems like communications, broadcasting, geospatial information services, satellites manufacturing and its elements, ISRO transfer of technology and meteorological facilities. It allows technological understanding to be authorized in various ISRO centres. Accordingly, up to the present day, approximately three hundred innovations have been transferred to the domestic industries.
- Satellite Communication Policy, 1997: The aims of the 1997 satellite communications policy are varied – firstly, the development of a satellite communications service industry; secondly, the development of a satellite communication and ground equipments industry; thirdly, the further development of satellite communications capabilities, ground systems and vehicles launched in India; fourthly, the utilization of the infrastructure.[19] In 2000, the policymakers set out the standards, guidelines and procedures in order to overcome the shortcomings of the policy.[20] The published guidelines and standards expanded the reach of the policy and highlighted the use and advancement of INSAT, the privileging of Indian satellites, increased transponder capacities and the INSAT network, and other key aspects for telecommunications, broad-based and meteorological utilisation of Indian satellites, among other activities.
- Remote Sensing Data Policy, 2011: The Government of India has adopted Remote Sensing Data Policy 2011 and has made the Department of Space a nodal agency in all conduct associated with the acquisition, transmission and/or allocation of data in the field of high-resolution images from professional and overseas remote sensing satellites for variety of activities and to the betterment of the public. The policy's aim is to promote the access control for development work to high-resolution data.[21]
- India National Space Promotion and Authorisation Centre: In an attempt to provide private market entities with a level of field for Indian space infrastructure, the Union cabinet has approved on June 4, 2020 the establishment of the Indian National Space Promotion and Authorisation Center. It is intended as an incentive for the private sector to participate, through a rigorous and beneficial regulatory regime, through supporting, directing, and encouraging private industries in space activities. It will further increase the social and economic use of space

[13] https://www.bbc.com/news/world-asia-india-45243908
[14] *Supra note 2.*
[15] https://economictimes.indiatimes.com/news/science/indias-2nd-lunar-mission-on-january-3-with-lander-rover/articleshow/65376670.cms
[16] https://economictimes.indiatimes.com/news/science/indias-mars-orbiter-mission-completes-four-years-in-orbit-isro/articleshow/65949237.cms
[17] https://www.bbc.com/news/science-environment-29341850
[18] http://www.prsindia.org/sites/default/files/bill_files/Draft%20Space%20Activities%20Bill%202017.pdf
[19] https://www.latestlaws.com/bare-acts/central-acts-rules/laws/space-laws/satellite-communication-policy-india1997/
[20] https://www.isro.gov.in/sites/default/files/article-files/indias-space-policy-0/satcom-ngp.pdf
[21] https://www.isro.gov.in/indias-space-policy-0

resources in India and expand space-based activities through better access to ISRO infrastructure, to satellite data, to services, to science and technology and to other space properties.

Spaces are still lacking, in addition to the general policies designed to create a regulatory framework and to reduce the space industry's uncertainty and to Article 51[22] and Article 73[23] of the Constitution of India, which display respect for international law and treaty obligations, in accordance with the 1968 Vienna Convention on the Law of Treaties[24].

CONCLUSION

India must initiate the required legislation, in compliance with Articles 51[25] and 253[26] of India's Constitution, not only facilitating public-private partnership and rapid development of technology, but also increasing the speed of indigenous and manufacturing within the country. In order to address the new challenges it also needs to be reformed, including the 1997 Satellite Communication Policy and 2011 Remote Sensing Data Policy. However, care should be taken in order to avoid over-regulation of the Indian space sector to discourage future investment in other countries, including Luxembourg, Japan, Canada, Singapore, Russia and the United States of America, as well as domestic and foreign investors, who have a robust yet beneficial regulatory regime.

[22] Article 51, Constitution of India.
[23] Article 73, Constitution of India.
[24] https://legal.un.org/diplomaticconferences/1968_lot/#:~:text=The%20Vienna%20Convention%20on%20the%20Law%20of%20Treaties%20codifies%20the,whether%20embodied%20in%20a%20single
[25] *Supra note 22*.
[26] Article 253, Constitution of India.