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Fabio Tronchetti

Fundamentals of Space Law and Policy

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Preface

Overview

This book is a concise introductory overview of international space law and policy. It seeks to address an audience relatively new to these fields. The objective of this short book is to cover in simple language the fundamentals of space law and policy and address key pending issues that are relevant to space law and policy experts.

This book provides the legal and political foundations of space activities as well as offering insight on present and future space law and policy trends, challenges, and opportunities. It serves as an excellent tool for those working with civil, commercial, and military space personnel and for anybody interested in these fields. A famed physicist one said that if you cannot explain a concept to someone new to your field, you do not understand it yourself. This book tried to take this admonition to heart by being as clear as possible.

The book is divided into two main parts. The first part deals with Space Law, and the second deals with Space Policy. The former describes the national and international legal frameworks governing space activities and the subjects involved in its formulation and implementation. The latter analyzes the political dimension of space activities and their impact on social, economic, and security matters. The conclusions of the book recount the main points and the way forward by recommending further reading on the subject.

Read in conjunction with the other books in the Springer Space Development series, one can indeed build a broader understanding of the business, economics, law, and policies of space activities.

What is Space Law?

Law is defined as "any system of regulations to govern the conduct of the people of a community, society or nation, in response to the need for regularity, consistency, and justice based upon collective human experience".[1] In particular, laws are made to achieve desired goals. In democratic institutions in the twenty-first

century these objectives include peace, social cohesion and societal advancement, the balancing of diverging interests, and the avoidance of undesired and dangerous conditions.

One might think that this means that law—and in this case space law—is thus a boring and arcane subject. This is simply not the case. Space law addresses advanced, state-of-the art technology that is constantly evolving in new directions. It also involves the views and sometimes conflicting opinions from nations around the world about how to conduct space-related affairs. It seeks to develop processes that can be used to settle disputes. Space law is also about how to explore, utilize, and protect outer space, not only for today but for generations yet to come. Finding new solutions to complex problems in a global context is what space law is fundamentally all about.

Thus in many ways space law is exciting, stimulating, path- and precedent-setting, and sometimes quite rewarding—especially when new solutions are found to difficult issues. Although the intricacies of space law treaties and conventions might be a bit heavy going at times, this short book seeks to hit the highlights. The goal is not to be a definitive book on space law but rather to explain the major features of space law and associated space policy. Some of the more important issues currently pending in the early part of the twenty-first century in the field of space law will be explained; for example, the pathway that starts with the so-called "soft law," including accepted practices and codes of conduct, that over time can evolve into formal agreements among nations having force of law will be discussed.

Broadly speaking the term "space law" is used with reference to the set of international and national rules and regulations governing human activities in and relating to outer space.[2] The purpose of space law is to establish a legal environment enabling the achievement of common goals and interests related to the exploration and use of outer space; at the same time, it aims at preventing the emergence of tensions and conflicts among the subjects involved in outer space activities.[3]

As a starting point, we can identify three main facets of space law. These are: its scope, its fragmentation, and its evolutionary nature.

1. Scope: Space law is applicable not only to activities taking in place in outer space, for example the collection of images and data by a satellite, but also to events occurring on Earth that are related to outer space, i.e., liability for damage caused by a space object or a part of it falling to the ground.

Even if it might appear surprising, international space law does not include a definition of "outer space," nor gives a precise indication of where outer space begins. Scholars and diplomats have been unable to reach an agreement on these two points since the beginning of the Space Age. Nevertheless, many argue[4] that the lower border of outer space should be set at an altitude of 100 km above sea level (62.5 miles).[5]

2. Fragmentation: Although there is a central body of laws, namely the five U. N. space treaties, space law does not exist as a single, coherent, and comprehensive body of legal principles and rules governing human activities in outer space. Rather it can be seen as a 'box' containing many different types of norms to deal with the practical problems connected with the exploration and use of outer space. Consequently, regulation of space activities is achieved through amalgamation and application of all possible rules.
3. Evolutionary Nature: The body of space law has been constantly growing since the entry into force of the first international treaty on outer space, namely the 1967 Outer Space Treaty. This is the consequence of the fact that, in the past 40 years, new developments and technologies have changed the nature and dimension of space activities. In order to ensure that these activities were carried out in an orderly and peaceful manner, space law had to adapt itself to these changes and progressively evolve.

What is Space Policy?

In its ordinary interpretation the word *policy* means "a plan or course of action, as of a government, political party, or business, intended to influence and determine decisions, actions, and other matters".[6] In the context of outer space, the term refers to the official approach of a state towards the exploration and use of outer space. Normally, a "space policy" describes a nation's strategy regarding its civilian space program and the military and commercial utilization of outer space. Furthermore, space policies include both the making of space policy through the legislative process and the execution of that policy by civilian, military bodies, and regulatory agencies.

As the military, economic, and social implications of the uses of space expand, so it does the relevance of outer space on a worldwide scale. The utilization of outer space has become a global phenomenon affecting the lives of millions of people and influencing international relations. Consequently, questions related to the access and use of outer space have been placed at the core of the strategic agenda of the technologically advanced nations.

In a similar scenario national space policies acquire a special importance. On one side, they give direction to all national subjects involved in space activities. On the other side, they constitute a tool to enhance transparency over the space activities of a certain country. In this way, they also strengthen trust among space participants and, ultimately, favor international cooperation. Thus, nowadays outer space-related issues significantly influence economic, political, and military decision-making at the national and international level.

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Obviously, this book remains my own product and I alone bear full responsibility for the views expressed and for any errors or omissions it may contain.

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