



India and its space Policy: An analysis of regulating mechanism

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Abstract

India believes in peace and disarmaments and it shall follow the same thing in her space law formation. It shall be helpful in the development of various fields including environmental and economical apart from that progressing in space activities, gaining an upper hand over other nations. The international space treaties and obligations should be met with Indian national space law. With the collective launch of 104 satellites in a single attempt India has proved her capability and potentials and signalling that she will not look back now. The ISRO being the first of its kind in India has contributed a lot in research and development related to space and heads all these space entities and what it lacks is none other than a comprehensive space law for having access over a wider aspect of space and issues of the kind

Keywords: ISRO, disarmaments, the 74th session of the UNGA in New York, the OST, the LC, the MA

1. Introduction

As the heading suggests one can find Indian Space Programmes under the light of present space policies and mechanism. Tracking the international treaties the present article goes on and provides the basic and necessary guidelines for building of an ideal space law for India.

This article deals with principles of policy on the basis of which the legislation should be drafted. It is also well known that India has a definite space programme to encourage systematic and strong development of space capability very speedily. The new state law has to keep pace with its rapid progress in this direction and should not hamper the progress of the space science and technology.

1.1 The Need for Indian Space Law

India according to Swami Vivekananda's words is a land of brotherhood and that epitome speech is relevant even today. Adding and elaborating the same message the Indian Prime Minister Narendra Modi addressed the 74th session of the United Nations General Assembly in New York on Friday evening on 27th September 2019 said that "We belong to all places, and to everyone" and icing the cake he said India has given "Buddh, not Yuddh".

In contrast to that Pakistani Prime Minister Imran Khan attempted to make the UN responsible for potential nuclear war between India and Pakistan. In his address Imran Khan made himself and his country a laughter stock allowing the world to barrack him. Before we discuss about the need for space laws for India it would be better to go through the different space laws sanctioned globally. These laws are directed for answering the International Space Laws for the development of space activities and not for a Star War.

India believes in peace and disarmaments and it shall follow the same thing in her space law formation. It shall be helpful in the development of various fields including environmental and economical apart from that progressing in space activities, gaining an upper hand over other nations. The international space treaties and obligations should be met with Indian national space law. There is a crying need

to constitute the national law as a number of nations are hiring our launch pads for their satellite launches and other space activities. The increasing demands should be balanced with a detailed and well defined space law with special reference and in accordance with the OST^[1], the LC^[2], the Moon Agreement^[3] opening the doors of opportunities.

The recent successes acquired in the arena of space have forwarded India on the way to be a space super power making the nation proud and the world to follow her to learn the basics of space especially the developing nations. Keeping both the necessary and compulsory rules in mind India is acting like a torch bearer for the whole mankind. It is in the limelight and has become a hot-spot or a flower with a number of bees hovering over to extract the nectar. These achievements have helped India to set new benchmarks in its researches and technologies and strengthened its position in the world.

India is seventh largest country and second largest in terms of population. It makes her essential to present herself as a developed, dedicated, daring, direct, desirable and deserving nation on the stage of world. India has started the space related activities more than sixty years before to promote the improvement and application of space mechanism for social and economics benefits of nation. Now, India is developing as one of the most powerful space faring nation in the world. Indian space field is now open for private sector participations. So to increase the private participations and to increase commercialization, it is imparative to have a national space law. With the collective launch of 104 satellites in a single attempt India has proved her capability and potentials and signalling that she will not look back now. Its space missions based on very raw and simple techniques, use minimal resources to proceed and carry out the exploration and perform experiments over there into the outer space. It needs a great appreciation and inspiration to move forward setting more new records in the field of astronomy.

Now the question arises whether these successes are enough to cope with the space specifics or legal constraints. No

doubt India is endeavoring as per international space laws and goes through every possible accident that may take place during the space activities posing itself as a responsible nation but it what still lacks is a specific and well defined national space law equivalent of other countries. The international and national space laws should go hand in land but what if there is no national space law and this situation is like playing with fire. It is sorry to say India is doing the same thing as it lacks a national space law. Being the Member State to the international space treaties India must have it to mitigate the possible disputes and risks. Had there been such laws the situations would be different and the present scenario demands the formulation and commencement of a national space law. In the name of such law India has its SATCOM policy related to satellite launches that is not sufficient to follow up the present space treaties all over the globe. In this competition era India needs to construct a strict space law and follow in accordance with international space treaties. However, the Space Activities Bill 2017 has been excavated and is under process of law formation indicating that the government is at work to promote the space activities in both lower and the outer space.

1.2 Need of Regularization

Why is regularization needed?

Rules and regulations refer to set guidelines. They help in maintaining law and order. Applied differently in different spheres. Habits turn into rules and rules in turn, turn into laws. Depending upon the circumstances some rules can be and should be changed if seen inappropriate and unproductive.

That is the reason our constitution makers have kept the room for the amendments for the betterment and continuancy of the nation and people. The same thing applies an space mechanism and the national regulatory frameworks governing space activities need to be worked on as soon as possible. The legislation is required as to ensure the use of advantage between developed and undeveloped countries according to the freedom of exploration and use provisions of the OST and for the use and exploration of the outer space.

All the movable and immovable assets including the research and development laboratories, works centers, space craft control centers and space launch pads/parts of ISRO/DoS shall fall under national properties and be protected through necessary measures.

The trade and the finance aspects of space activities like space tourism, space transportation like other transportation services related law. As country like the EU, the USA, Canada, Australia, the Russian Federation and Japan are working on this aspect and Japan, Brazil, South Korea, India are ready to offer commercial services in near future.

It is important to recover resources from the celestial bodies as there are uranium, aluminium, palladium, iridium which can be used in outer space for generating space missions and to allow recovery of resources for commercial purposes.

Problems related to the issue of launch services, satellites services, telecommunication services, national security, navigational services needs a countries own law to develop the power of space commerce and industry.

The fast changes in the global space industry and credible competition with other space powers, especially Asia-

Pacific region must cause awareness in nation to look at the significant negative impact that may arise from the absence of a national space law on the future of her space economy as such a legal framework looking this all in view is very much essential.

India's Remote Sensing Data Policy of 2001 ^[5] through which India has also set guidelines for mechanism and controlling of remote sensing data.

The field of regulations and supervision along with a mandatory obligations and penalties provisions are licensing requirements, remote sensing, commercialization, issue of launch services, satellites services telecommunication, security issues etc.

As the fast changes in the global space industry and credible competition with other space powers, especially Asia Pacific region are taking place. India needs to construct a well-defined space law and strict regulatory mechanism to maintain the balance among the other space powers around the globe.

The five international milestone treaties of the UN give the base for any space law having the strong foundation. The outer space is open to all and especially the private entities that are for better, faster and professional than the governments can overrule these treaties. So there a state needs to regulate them with proper legal framework. The loopholes of the treaties want an urgent attention to deal with the present space competition.

Regularization is essential according to the following rules also:-

1. As per Article 10 of the UN Charter GA discusses any question and can make Recommendations to the UN and SC or both and as per its 18th article its important decision should be based on two third majority of its members present and voting.
2. The UNGA Resolution are based on the discussions on questions related to the international peace and security put forward by its Member State or by even the Non-Member State of the UN and call attention of the SC to situation endangering international peace.

The national space legislation favors the international responsibility for the national space activities by both the governmental non-governmental sectors and under its 6th article demands the authorization and continuing supervision by the appropriate State Party to the OST. It in its 7th article also sets the agenda of international liability for damage made to another State Party to the treaty in term of loss to its national or juridical persons and gives freedom to concentrate on space activities after getting the space objects registered for better jurisdiction and control and for asking to return upon to their return.

1.3 Steps towards the space Law

The ever increasing advancement in the field of science and technology is leading its way to cut throat competition for ruling the space. India with the absence of a well formatted space law is lagging behind in this race. With its centralized mechanism Indian space programmes are still operated single handedly by the Prime Minister's Office (PMO) making it nearly unmanageable and hinders the space advancements.

However, the establishment of Department of Space (DOS) and Antrix Corporation Limited shows India's aspirations for space and its exploration. The recent announcement by

the Prime Minister Shree Narendra Modi of Anti Satellite Missile and Defense Space Agency (DSA) and the establishment of “a very small space station” to carry on the space activities named Gaganyaan are in the line to be a party of Indian space missions by 2022 have proven the Indian ambitions for space.

The Indian Space Research Organization (ISRO) being the first of its kind in India has contributed a lot in research and development related to space and heads all these space entities and what it lacks is none other than a comprehensive space law for having an access over a wider aspect of space and issues of the kind. It has become imperative for India to draw a framework or outline for its national space law as soon as possible as the present status is not sufficient and does not help in achieving the more and more private sector participations and alone all it should follow all the international norms.

Conclusion

To follow international laws are obligatory on the part of every nation in good faith. Vienna Convention Treaty's Art. 26 also resounds the same. Although ours is a progressive country in respect of domestic and international space activities, unfortunately there is no law related to space in India. Space and the matters related to space are governed in the country by legal rules related to the different areas of the Indian domestic laws. The legal position of space industry is chiefly determined by the Constitution of this country.

Although the country has crept in the esteem of the international arena of space technology, development and utilization, we are lagging behind in the integrated efforts at the national level so far private sector is concerned. Our space activities have to be linked to other applications and activities, they cannot be in the isolation. Time has come now for the preparation of appropriate legal framework, keeping in view the recent national and global developments which include the active involvement of the private sector and commercialization of space activities. It should be inclusive of the agreements concluded nationally and globally with various agencies, governments and intergovernmental organizations.

Reference

1. Indian Space Research Organization.
2. The 74th session of the United Nations General Assembly in New York on Friday evening on 27th September 2019.
3. The Outer Space Treaty was drafted and signed on 27 January 1967 and entered into force on 10 October 1967.
4. The Liability Convention was the Convention on International Liability for Damage Caused by Space Objects. It was adopted by the General Assembly in its resolution 2777 (XXVI) and was opened for signature on 29 March 1972 and entered into force on 1 September, 1972.
5. The Moon Agreement was signed in December 1979 following an initiative by the Soviet Union. On 5 December 1979, the UN General Assembly adopted the Agreement in resolution 34/68.
6. Remote Sensing Data Policy (RSDP _ 2011), adopted and entered into force on 4 July 2011; available online at <http://lib.icimod.org/record/8866.pdf> (last accessed 9 January 2019).