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PRIVATE SPACE ACTIVITIES AND STATE RESPONSIBILITY UNDER INTERNATIONAL SPACE LAW: EXAMINING THE LIMITS OF INDIA'S LIABILITY FOR THE CONDUCT OF PRIVATE SPACE COMPANIES

~ Deepshikha

Abstract

The rapid growth of commercial activities in space has transformed the space sector from state driven domain to involving private companies. The increasing participation of private entities in space activities as satellite operations, launch activities has raised important questions concerning the extent of state liability under international space law.

Article VI of outer Space Treaty, 1967 states that state are responsible for authorising and supervising the activities of non governmental entities in outer space. Article VII and Liability Convention, 1972 states the rules related to international liability for damage caused by space objects. Both the treaty and convention fails to clarify the relationship between state responsibility and the independent conduct of private space companies.

This paper examines the liability of state specifically India as to what extent they may be held liable for the conduct of private / non-governmental entities operating under its jurisdiction. It critically analyses the state liability, responsibility and doctrine of vicarious liability with particular focus on India obligations under Outer Space Treaty.

This research paper is based on doctrinal and analytical approach as the paper is examining the relevant international space law instruments and also India's frameworks. The paper states that India's responsibility to authorise and supervise doesn't automatically amount to vicarious liability for every act or omission of private entities in space. State responsibility should arise from state's own failure to fulfill its international obligations and that the actions of private entities should be assessed separately.

Keywords : private space activities, state responsibility, vicarious liability, outer space treaty, IN-SPACe

Introduction

The use and exploration of outer space has undergone transformation, shifting from activities conducted only by state and their governmental agencies to sharing the space with private entities like companies, startup's and other non governmental entities. The private participation has many space activities such as satellite manufacturing, operations, launch services, space based communications and other emerging space activities. This change has created many new opportunities for economic growth, technological advancement and also international cooperation. Although this transformation has created many opportunities but it raises import legal questions regarding the responsibility and liability when the private entities causes damages or violates obligations under international space law. The main problem or legal question that arises is determining to what extent the state are liable for the consequences for activities that are commercially conducted by private entities as the state has power to authorise and supervise them.

The principal international legal instrument for participation of non governmental entities in outer space is Treaty on Principles Governing the Activities of State in the Exploration and Use of Outer Space, including other Outer Space Treaty. Article VI provides that State have international responsibility for national activity in outer space, even if the activities are carried out by non-governmental agencies. It's further said that the activities of non-governmental agencies or entities in outer space to be authorised and continuously supervised by the concerned state.[1] This provision establishes a direct state obligation in relation to private space activities. However the treaty doesn't state that every act or omission of private entities automatically becomes the act of state nor it define the consequences of state failure to fulfil its authorisation and supervision obligations. To determine the limits of state responsibility in activities of private entities in outer space, the interpretation of Article VI is important.

[1] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 19 December 1966, opened for signature 27 January 1967, entered into force 10 October 1967) 610 UNTS 205, art VI ('Outer Space Treaty').

When Article VI and Article VII[2] of the treaty are read alongside the question become more complex as Article VII establishes the international liability of state for damage caused by their space objects while the liability convention develops this by providing for absolute liability in cases of damage caused on the surface of earth and fault based liability for certain damage caused elsewhere than on the surface of earth.[3][4] These provisions establish a treaty based system of international liability that doesn't depend on whether the conduct of private entities can be attributed to state under the general law of state responsibility. Consequently, the state responsible for authorising and supervising the activities in outer space, the state internationally liable as a launching state and the private entity that conducted the activity occupy different position. The positions of both need to be examined rather than assuming it.

A fundamental issue here is the distinction between state liability, their responsibility and vicarious liability. Under General international law, state responsibility concerns the legal consequences when the conduct attributable to a state constitutes a breach of international obligations. Article 2 of the international law commission's Articles on responsibility of states for internationally wrongful act, identifies two key elements of international wrongful act – a) conduct attributable to state and b) a breach of international obligations.[5] On the other hand, internships liability under space law treaties concerns the obligation to compensate for damages in circumsta governed by these instruments. Vicarious liability is a separate concept, that concerns the imposition of legal responsibility upon one person or entity for the act of another. The above concepts are related but are not interchangeable. The state international obligation to authorise and supervise private space activities doesn't by itself resolve as to whether the state is responsible for breach, liable for damage under the space treaty for every act of private entities.

The distinction is very important and needed as private conduct is not directly attributable to state just because the private entity is incorporated under its territory or operates their or has

[2] Outer Space Treaty and the *Convention on International Liability for Damage Caused by Space Objects, 1972* ('Liability Convention').

[3] Convention on International Liability for Damage Caused by Space Objects (adopted 29 March 1972, entered into force 1 September 1972) 961 UNTS 187 ('Liability Convention'), arts II–III.

[4] Outer Space Treaty (n 1) art VII

[5] International Law Commission, 'Articles on Responsibility of States for Internationally Wrongful Acts' (2001), annex to UNGA Res 56/83 (12 December 2001), art 2.

government authorisation. Under General rules of state responsibility, in specific circumstances the conduct of private persons may be attributable to a state, it include where the person concerned exercise elements of governmental authority under international law recognised conditions or act on the instruction of or direction or control of state in relation to

conduct in question.[6] The position under international space law cannot be solely determined by applying general attribution rules without consulting the independent treaty obligations imposed by Article VI.State may incur responsibility of its own failure to establish or maintain authorisation and supervision even where the private entity's conduct is not itself attributable to state. There need to be specific distinction between responsibility arising from the state's own conduct or omission from liability arising under the international space law regime.

This is specifically relevant to India, who has opened to private investment participation. The Indian space policy 2023 gives a framework for the participation of non governmental entities across space value chains and identifies IN-SPACe as the institution responsible for promoting, enabling, authorising and supervising space activities. [7] The procedures, guidelines of implementation of Indian space policy, 2023 in respect of authorisation of space activities (NGP 2024) sets out the requirements of governing the authorisation of space activities, including consideration relating to safety, security and mitigation of space and environmental risks. [8] These measures represent the important development in India's approach to private space participation. India is a party to outer space treaty and the liability convention, making the relationship between the domestic and international obligations a matter of practical as well as doctrinal importance.[9]

Despite these, the existence of a domestic authorisation and supervision framework doesn't by itself answer every question in relation to India's international obligation or liability. A

[6] ibid arts 4, 5 and 8. Article 8 concerns conduct carried out on the instructions of, or under the direction or control of, a State; its application depends on the circumstances of the particular case.

[7] Government of India, Department of Space, *Indian Space Policy 2023* (2023), sections 4–5.

[8] Indian National Space Promotion and Authorisation Centre, *Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in respect of Authorisation of Space Activities* (May 2024) ('NGP 2024').

[9] Indian Space Research Organisation, 'FAQ – International Cooperation', response to question 9 (confirming India's ratification of the Outer Space Treaty and Liability Convention).

private entity for example, may conduct activities an activity that results in damage to a third party or to space object of another state. In such situations, the applicable legal consequences depend on various conditions – a) whether India qualifies as launching state under the treaty, b) whether the damage falls within the liability convention, c) whether the conduct of private entity is attributable to India, d) whether India has breached it's obligations to authorise and continuously supervise national space activities. These questions need a separate analysis as legal basis, conditions and consequences of international liability for damage are not same as the governing state responsibility for an internationally wrongful act.[10]

The present research examines the extent of India's responsibility and liability internationally for the conduct of private entities within its jurisdiction in outer space. The paper analyses Article VI of the outer space treaty along with Article VII, the liability convention and the general principles governing state responsibility. It also analyses India's regulatory framework, especially the Indian space policy,2023 and the NGP 2024, in order to assess how India seeks to discharge to international obligations. The main issue is not whether state have obligations in relation to private space activities, since Article VI clearly established such obligations but how the scope and legal consequences of such obligations should be determined when the private entity independently undertakes commercial space operations.

The main argument of this paper is that India's obligation to authorise and continuously supervise private entities activities in outer space should not automatically be considered as vicarious liability for every act or omission of private entities. The extent of India's international responsibility be aligned with the obligations involved, relevant conduct or omission, applicable laws of attribution where attribution required and the circumstances in which breach happened. When the conditions of Article VII of Outer Space Treaty and Liability Convention are fulfilled, India may incur treaty based liability for damage in its capacity as a launching state, irrespective of whether private entities conduct is attributable to India in the manner required for state responsibility. This paper therefore seeks to identify the extent of India's liability and responsibility without treating either automatically excluded or automatically established by the private operator.

[10] Liability Convention (n 3) arts I(c), II–III. Article I(c) defines a 'launching State' to include a State which launches or procures the launching of a space object and a State from whose territory or facility a space object is launched.

The research paper adopts a doctrinal and analytical approach. It examines the relevant international treaties, the international law commission's Article on state responsibility, India's space policy and other relevant frameworks. Through this critical analysis the paper seeks to clarify the relation between state's international obligation, its domestic regulatory responsibilities and the independent conduct of private entities in space. It assesses the existing legal framework and provides sufficient clarity regarding the allocation of responsibility and liability in India's emerging commercial space sector and to identify areas where where more legal and regulatory may be required.

2. Conceptual Distinction between State Responsibility, state liability and vicarious liability

2.1 state responsibility under international law

State responsibility is one the important and basic feature of international law under which it's clearly stated that a state incurs international re when its conduct constitutes a breach of international obligation attributable to it. Article 2 of the international law commission's Articles on Responsibility of States for internationally Wrongful Acts, 2001 (ARSIWA), identifies two essential elements of internationally wrongful act, a) the conduct must be attributable to state under international law and b) conduct must constitute a breach of international obligation of state.[11] The conduct should be an act or omission. And hence the state international responsibility not only arise when state engages in prohibited act or omission but also when it fails to perform obligations under international law.

Article VI of the Outer Space Treaty states specific obligation of state concerning national space activities. It's the international responsibility of state for national activities in outer space, it also includes activities of non-governmental entities and the state also must ensure that the activities are within the provisions of treaty. The Article also requires the state to authorise and continuously supervise the activities of non-governmental entities in outer space.[12] These obligations make state responsibility relevant even when the operator is private entities not the government agency.

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[11] International Law Commission, 'Articles on Responsibility of States for Internationally Wrongful Acts' (2001), annex to UNGA Res 56/83 (12 December 2001) ('ARSIWA'), art 2.

[12] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 19 December 1966, opened for signature 27 January 1967, entered into force 10 October 1967) 610 UNTS 205, art VI ('Outer Space Treaty').

In this there are two separate questions. One is whether the private entity conduct is attributable to the state under international law. And second is whether the state has complied with the obligations under Article VI. This distinction is important as state responsibility of its own conduct is different from the attribution of private entity conduct to that state. In General international law, the private entity conduct is not directly attributable to state simply because the entity is in state jurisdiction or has received governmental authorisation. Article 8 of the Articles on Responsibility of states for internationally Wrongful Acts, 2001, recognises attribution where the private entity has on the instruction or direction or control of state in carrying out the conduct in question.[13] Therefore, the existence of regulatory relation between state and private entity wouldn't by itself establish that every act or omission is act of India.

Article VI of the Outer Space Treaty makes this more complex. Even when the private entity conduct cannot be attributed to state, India still may face questions about the compliance with the obligations to authorise and continuously survive national space activity.[14] For example when a private satellite operator violates applicable requirements, the main question that arises is not whether the operator has caused the problem but whether India itself has failed to fulfil an international obligations. The distinction lies between state responsibility for the private entity conduct and state being responsible for its own failure to meet its obligations.

The distinction is important as Article VI cannot be interpreted too broadly by imposing unlimited responsibility on state nor too narrowly by allowing them to escape responsibility for damage caused by private entity. The treaty requires state to authorise and continuously supervise non-governmental activities but whether the state has breached its obligation must be assessed in particular circumstances. The fact that the accident has occurred alone is not enough to establish a breach, similarly the mere existence of a licensing system doesn't automatically prove compliance.

In India the main focus should be on the adequacy of its regulatory conduct and obligations applicable to the activities. If a private entity breaches an international requirement, India

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[13] International Law Commission, 'Articles on Responsibility of States for Internationally Wrongful Acts' (2001), annex to UNGA Res 56/83 (12 December 2001), art 8.

[14] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 19 December 1966, entered into force 10 October 1967) 610 UNTS 205, art VI.

cannot be held liable only on the basis of the violation. It need to be established that India has itself failed to discharge its obligations under Article VI. This distinction forms the base for examining state liability separately from state responsibility.

2.2 State Liability under International Space Law

Under international space law state liability mainly concerns with obligations to compensate for damage under the applicable treaty. Article VII of the Outer Space Treaty read together with Liability Convention, 1972, identifies the situations in which a state may be liable for damage caused by space object.[15] The main crucial fact is that the liability doesn't depend exclusively on whether the private entity conduct is attributable to the state.

The Liability Convention has different standards for different types of damages. Article II states absolute liability for damage caused on the surface of the earth or to aircraft in flight, while Article III states fault-based liability for specific damage occurred elsewhere than on the surface of the earth.[16] And hence the applicable standards depends on the the circumstances of incidents.

For example when a private operated satellite collides with another state satellite. Before determining India's liability, it is important to establish whether India is the launching state and also whether the requirements under Liability Convention are satisfied. The fact alone that Indian company operates the satellite is relevant but not sufficient.

This demonstrates why state responsibility and liability must be seen separately. India might face compensation claim under the space law without the claimant establishing a separate international wrongful act of India. On the other hand, if India fails to comply with international obligations, it may result in state responsibility even if the conditions for claim under the Liability Convention are not met.[17]

2.3 Vicarious Liability and Private Space Entities

[15] Outer Space Treaty (n 1) art VII; Convention on International Liability for Damage Caused by Space Objects (adopted 29 March 1972, entered into force 1 September 1972) 961 UNTS 187 ('Liability Convention').

[16] Liability Convention (n 2) arts II–III.

[17] International Law Commission, 'Articles on Responsibility of States for Internationally Wrongful Acts' (2001), annex to UNGA Res 56/83 (12 December 2001), art 2; Liability Convention (n 2) arts II–III.

Vicarious liability raises different questions i.e can India be vicariously held liable for every act or omission of private entities in outer space simply because the companies operates under the jurisdiction or has received governmental authorisation?

Article VI of the Outer Space Treaty doesn't expressly establish vicarious liability for all private entities conduct.[18] Its importance lies in the state obligations in relation to national space activities, including authorisation and continuous supervision. The consequences of accident must be determined by examining the treaty provisions, the rules of attribution and any failure by the state to fulfil its own obligations.

This distinction can be illustrated through a example. If a private entity causes damage despite that India has complied with international obligations applicable to ours regulatory conduct, the damage alone doesn't establish that India has breached Article VI. However, if India has failed to fulfil its supervisory or authorising obligations, its own omission gives rise to international responsibility. Where the private entity conduct is attributable to India under the relevant rules and laws, a further basis for state responsibility may arise.

The paper argument is not that India should never be held responsible for private entities activities in outer space but that the responsibility must be from applicable legal rules not merely from existence of a relation between the state and private entity. This recognises the importance of state supervision without making every private operational failure as an automatic act of India.

2.4. The Distinction between three concepts

The three concept and their central questions are:

- State responsibility – has India breached an international obligation through conduct attributable to it?
- State liability- do the applicable space treaty requires India to compensate for damage caused by a space object?
- Vicarious liability- is there a legal basis for holding India responsible for the conduct of a private entity based on their relation?

[18] Outer Space Treaty (n 1) art VI.

These concepts may overlap, but they are not interchangeable. The central argument of this paper is that India's international responsibility and liability must be as per the legal requirements. This should neither be presumed merely because private entity runs in Indian territory nor should be excluded because the activity is privately conducted.

3. International Legal Framework Governing Private Space Activities

The international framework for space activities was developed when the states were the only one who were exploring space and the private entity were not allowed in space. There was state monopoly in outer space activities. Later the private entity were also allowed to explore and conduct outer space activities. The growing participation of private entities has made the interpretation of these instruments more important. The Outer Space Treaty,1967, The Liability Convention,1972 and the Registration Convention,1975 provides framework for state obligations, liability for damage and the registration of space object.[19] However, each instrument has different purpose and their provisions must be applied according to legal question involved.

3.1 Article VI of the Outer Space Treaty – Authorisation and Continuing Supervision

Article VI of the Outer Space Treaty is the main regulation for private space activities. The treaty establishes international responsibility for activities in outer space, whether it is conducted by governmental agencies or private entities and requires the authorisation and continuous supervision by the state.[20]The provision of the treaty clearly state that the private participation doesn't remove space activities from the scope of state's international obligations.

The provisions requirement for state to continuously supervise is particularly significant.Authorisation is there to address whether an activity should proceed and supervision is concerned with the entities conduct after the approval. For example, a satellite operator receives authorisation/permission for launch, however operational risk or technical

[19] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 19 December 1966, entered into force 10 October 1967) 610 UNTS 205 ('Outer Space Treaty'); Convention on International Liability for Damage Caused by Space Objects (adopted 29 March 1972, entered into force 1 September 1972) 961 UNTS 187 ('Liability Convention'); Convention on Registration of Objects Launched into Outer Space (adopted 12 November 1974, entered into force 15 September 1976) 1023 UNTS 15 ('Registration Convention').

[20] Outer Space Treaty, art VI.

failure may arise many year later. For this effective oversight is needed beyond the initial approval stage.

However, Article VI doesn't give a detailed procedure to be followed for supervision for each category of commercial space activity. Its application requires consideration of the relevant obligations, the nature of the activity and the state conduct. An accident alone is not sufficient to eastablish a breach, as the existence of authorising system doesn't automatically prove compliance.

In India, Article VI is the legal basis for examine the role of IN-SPXCe and the domestic framework for private space activities. The main question is whether these arrangements adequately implement the obligations imposed by the treaty rather simply whether a regulatory authority exists.

3.2 Article VII of the Outer Space Treaty and the Liability Convention, 1972

Article VI states the state obligations and responsibilities for the activities in outer space, Article VII establishes state international liability for damage caused by the private entities in specific circumstances. The liability Convention convention has developed this framework by identifying launching states and establishing rules for compensation. [21] A launching state also includes a state from whose territory or facility the object is launched.[22]

The convention distinguishes the different forms of damage. The distinction is important when private entity owns space object or operates in space activities. Ownership alone is not sufficient to to determine whether the state should be liable or not. A state can even fall under the treaty definition as launching state when the activities are commercially conducted by private entities.

Similarly, India can be assessed its qualification as a launching state to determine the liability.

3.3 The registration convention, 1975

The Registration Convention is addition to the international liability framework as it requires the state to register space objects according to the procedure. Article 2 states that the launching state to register a space object launched in earth orbit or beyond. When there are

[21] ibid art VII; Liability Convention.

[22] Liability Convention, art I(c).

more than one launching state, the convention states that it has to be jointly determined which state will register the object.[23]

Nevertheless, registering a space object doesn't by itself establish that a state has fulfilled the obligations under ArticleVI or to determine state liability or to compensate.

3.4 Relation between the instruments

All the three instruments talks about different aspects of state obligations, responsibility, liability in space activities. Article VI the outer space treaty talks about obligations of state in national space activities and the authorisation and continuous supervision of non-governmental entities. Article VII and The Liability Convention talks about liability for damage and the Registration Convention talks about the identification of space objects.[24]A private entity cause it an incident in space can involve all these three or any of these instruments.

The international framework is the foundation for determining the consequences of private entities space activities but the facts and legal obligations also play a important role.

4. Indian Frameworks addressing Private Space Activities

The Indian space sector is transforming from domination of government institution to participation of large private entities. This transformation creates many challenges. India has to balance its international obligations and encouraging innovation and commercial participation. And therefore, the regulatory framework must be assessed to find a balance between how to facilitate private entities and accountability of state.

4.1 India Space Policy, 2023

The Indian Space Policy, 2023 is the major policy that marks the shift towards the greater participation of private entities in space sector. It's talks about the non-governmental entities, their activities including satellite operations, launch services and the space based applications. The policy also talks about the roles of IN-SPACe, ISRO, NewSpace India Limited and the Department of space.[25]

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[23] Registration Convention, art II.

[24] Outer Space Treaty, arts VI–VII; Liability Convention, arts I–III; Registration Convention, arts II–IV.

[25] Government of India, Department of Space, *Indian Space Policy 2023* (6 April 2023).

The policy recognises that the private entities plays a important role in India's space programme. The policy allows the private entities to carry out commercial space activities and as well as operational risks.

The participation of private entities doesn't remove the state obligations under international space law. Therefore the policy needs to be read to together with Article VI of the Outer Space Treaty, which talks about authorisation and continuous supervision of non-governmental space activities. The main issue is whether the domestic framework adapts these international obligations into their practice.

4.2 IN-SPACe

The Indian National Space Promotion and Authorisation Centre (IN-SPACe), it is an autonomous agency under the Department of Space, which serves as a central institutional mechanism for authorising and facilitating space activities. Its also see the promotion and supervision of private entities.

It's of the role is also to that it act as a point of contact between the state and private operators before the space activities begins. Through this the regulatory conditions are imposed and compliance requirements are communicated.

4.3 The 2024 Norms, Guidelines and Procedures

The norms, guidelines and procedures in implementing the policy for authorisation of space activities gives more detailed framework for implementing the policy. It talks about the criteria and conditions and also identifies activities requiring authorisation.

It is important as the border policy objectives can be excited only when the applicants and regulators know what permissions are required and the criteria and conditions. A proper structured process, authorisation helps in resolving the issues like nature of activity and the protection of national interests. The analysis starts with the existence of authorising procedure. The procedure of permissions and settled criteria clearly shows that how India is giving effects to Article VI.

The NGP, released by IN-SPACe on May, 2024 requires authorisation for space activities carried out within the territory of India and also Indian entities operating from abroad.[26]

[26] IN-SPACe, Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in respect of Authorization of Space Activities (3 May 2024).

Normally, only Indian companies can apply however if a Foreign entity wants to operate India, its can be done through subsidiary, joint venture or through any other procedure recognised by Government of India, however there are few activities, such as satellite communication services that can be applied by foreign entities.[27]

4.4 Liability and Insurance under the NGP

Chapter X of NGP and Chapter XI of registration of space objects deals with Liability aspect.[28] Its important for the applicants to take a third party liability insurance based on IN-SPACe terms and the Government has to be named as insured party.[29] There are people who disagree on how far insurance requirement goes. Some treats it as mandatory for private entities performing space activities while some thinks as required where IN-SPACe think it necessary.[30]

There are two things, one is that the NGP uses the insurance to pay for India's liability under Treaty and another is that the framework keeps growing by amendments and additions. The latest addition which was in July 2026, requires IN-SPACe authorisation for a re- entry of space objects.[31] The new instruments have same status as the previous one, guidance are not passed by parliament but are issued under policy.

4.5 The Draft Space Activities Bill and the absence of a statue

Till this date India doesn't have a primary legislation on private space activities. In 2017, The Department of Space released a draft Space activities Bill for comment, which was never introduced in Parliament.[32] A new version has been reported[33] however till this date it has not been enacted.[34]

5. India as a Launching State : Extend of Liability

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[27] Khaitan & Co LLP, 'Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in Respect of Authorization of Space Activities (NGP)' (*Mondaq*, 3 June 2024)
[28] Vikrant Rana and Shantam Sharma, 'Modernising Space Liability: A Comparative Analysis of the UN Liability Convention and Indian Government Policy' (*SS Rana & Co*, 16 January 2025)
[29] Ibid.
[30] Khaitan & Co LLP (n XX); Ashwath Chelladurai, 'From Policy to Protection: Third-Party Liability and Insurance in Indian Space Exploration' (*LiveLaw*, 2 October 2025)
[31] 'IN-SPACe Approval Now Required for Planned Space Object Re-entry' (*News on AIR*, 30 July 2026)
[32] 'Draft Space Law Gives Private Firms a Grip on Rocket, Satellite Making' (*Business Standard*, 21 November 2017)
[33] 'Space Law 2025: India' (*Chambers and Partners Practice Guides*, 2025)
[34] 'India's Space Law Vacuum' (*LiveLaw*, 2 August 2026)

5.1 Launching State Definition

The Liability Convention defines a launching state as a state that launches a space object, procures the launching, from whose territory the object is launched or from whose facility it is launched.[35] When more than one country qualifies as launching state, they are jointly and severally liable to third state or its nationals.[36] The territory of state that has been used for launch count as participant in joint launching.[37]Any launch from Indian territory or from a facility under Indian territory makes India as launching state.

5.2 Launches Procured Abroad

Its become complicated when the Indian entity hires a Foreign provider to launch a satellite from a foreign territory. In this situation, India is not the launching state and whether it's a launching state depends on whether it procured the launching.

The ordinary meaning of 'procures' in context of the convention's aims to give victims prompt and effective compensation and these interpretive rules reflect customary international law.[38]

5.3 The Two Liability Standards and Private Operators

Article II of the Liability Convention makes the launching state absolutely liable for damage caused on the surface of the Earth or to its aircraft in flight by its space objects. If the damage is caused due to gross negligence or intentional wrongdoing by the claimant state the launching state has exception from absolute or vicarious liability.[39] If an authorised private operator is one of the persons for whom the launching state is responsible, the operator's fault can count as state fault under the convention. Therefore its right to say that india is not vicariously liable for every act of its private entity under the general law and under Article VI. But the Liability Convention has its own version of responsibility for private fault. The liability Convention governs the relation between launching state and claimants and under

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[35] Convention on International Liability for Damage Caused by Space Objects (adopted 29 March 1972, entered into force 1 September 1972) 961 UNTS 187 (Liability Convention) art I(c); Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 27 January 1967, entered into force 10 October 1967) 610 UNTS 205 (Outer Space Treaty) art VII.

[36] Liability Convention arts IV–V.

[37] Liability Convention art V(3).

[38] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, arts 31–32; *Territorial Dispute (Libyan Arab Jamahiriya v Chad)* (Judgment) [1994] ICJ Rep 6 [41].

[39] Liability Convention arts II, VI(1).

Article V between Launching states. However the convention is silent on the relationship between launching state and private operator behind the claim.[40]

6. Due Diligence, Attribution and the limit of India's Responsibility

6.1 Attribution of Private Conduct to India

ARSIWA allows the conduct of a person or entity that is not a state organ to attribute to the state on many grounds. If the State laws empowers the entity to exercise elements of governmental authority is attributable when its act within the role.[41] The Indian Space Research Organisation as a part of the Department of space, is a state organ and its conduct is attributable to India.[42]

In *Nicaragua* it required effective control over the specific operations in which the violations occurred, not just general control over the group,[43] and in *Bosnia Genocide* it confirmed that test and refused to replace it with the 'overall control' test the ICTY Appeals Chamber had used in *Tadić* for a different purpose.[44] Applying this here, it suggests commercial contract between a governmental body and private operator or granting of licence does not amount to direction or control of what operator does. In *Tehran Hostages* the Court separated Iran's failure to protect the embassy, which engaged its responsibility under its own obligations, from the later approval and endorsement of the seizure by State organs, which turned it into the State's own act.[45]

6.2 Article VI - An Obligation of conduct or Result

Article VI make the State internationally responsible for the national activities of non-governmental entities as if they were its own, and so for making sure they comply with the Outer Space Treaty. Article VI also works as a special rule of attribution that, under Article 55

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[40] Liability Convention art V(2).

[41] International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries' (2001) vol II, pt 2 *Yearbook of the International Law Commission* 26 (ARSIWA), annexed to UNGA Res 56/83 (12 December 2001) UN Doc A/RES/56/83 art 5.

[42] ARSIWA art 4.

[43] Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Merits) [1986] ICJ Rep 14 [109]–[115].

[44] Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) (Judgment) [2007] ICJ Rep 43 [396]–[407]; Prosecutor v Tadić (Judgment) IT-94-1-A (15 July 1999) [115]–[145].

[45] United States Diplomatic and Consular Staff in Tehran (United States of America v Iran) (Judgment) [1980] ICJ Rep 3 [63]–[74].

of ARSIWA on *lex specialis*, displaces the general rules, so that a private operator's breach of the Treaty is the State's breach.[46] Article VI is an obligation of conduct. The State must set up authorisation and continuing supervision, and is responsible if it fails to do so with the diligence required. Its responsibility for private conduct is then derivative, not automatic.[47]

The saying that Article VI is an obligation of conduct. As Article VI clearly states the specific duties of authorisation and continuing supervision and it's the state responsibility for the private entity conduct in outer space activities. Even Article 139 of UNCLOS, states similar. States Parties have the responsibility to ensure that sponsored entities' activities in the Area comply with the Convention.[48] General international law states that a State is not responsible for private conduct as such but for its own failure to prevent or respond to it,[49] and a departure from that position should be clearly established. Article VI does not clearly make one. State practice fits the conduct reading. National space laws are built around licensing, supervision, insurance and indemnity, not around a presumption that every private act is an act of the State.[50]

6.3 The Content of the Standard of Diligence

Due Diligence doesn't mean preventing every harm. In *Corfu Channel* the Court spoke of a State's duty not to knowingly allow its territory to be used for acts contrary to the rights of other States,[51] and in *Pulp Mills* it described the principle of prevention as a customary rule that grows out of the due diligence a State owes in its own territory.[52] The State must use adequate means and stay as vigilant as the circumstances demand, and it is not in breach just because harm occurs.[53]

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[46] Cheng (n XX); UNGA Res 1962 (XVIII) (13 December 1963).

[47]Frans G von der Dunk, 'The Origins of Authorisation: Article VI of the Outer Space Treaty and International Space Law' in Frans G von der Dunk (ed), *National Space Legislation in Europe* (Martinus Nijhoff 2011); Michael Gerhard, 'Article VI' in Stephan Hobe, Bernhard Schmidt-Tedd and Kai-Uwe Schrogl (eds), *Cologne Commentary on Space Law*, vol I (Carl Heymanns Verlag 2009).

[48] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) art 139(1).

[49] *Corfu Channel Case (United Kingdom v Albania)* (Merits) [1949] ICJ Rep 4, 22; *Tehran Hostages* (n XX) [63]–[68].

[50] UNGA Res 68/74 (11 December 2013) UN Doc A/RES/68/74.

[51] *Corfu Channel* (n XX) 22.

[52] *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (Judgment) [2010] ICJ Rep 14 [101].

[53] Riccardo Pisillo-Mazzeschi, 'The Due Diligence Rule and the Nature of the International Responsibility of States' (1992) 35 German Yearbook of International Law 9; Robert P Barnidge Jr, 'The Due Diligence Principle

If Article VI is a due diligence obligation, India cannot be held responsible simply because a private operator causes harm. But India also cannot treat the existence of an authorisation system as the end of the matter, because the real question is whether the system is adequate and properly applied. A claimant State has to prove a failure of supervision, yet the relevant information sits in the files of the authorising State.

7. Recommendations

First, India should pass a space activities statute giving IN-SPACe a clear legal mandate. It should set out the powers to authorise, attach conditions, monitor, inspect, suspend and revoke, and to order corrective action or disposal. It should provide penalties for unauthorised activity and a route of appeal and judicial review, so that the constitutional requirement of law is met and the authority's powers are beyond doubt.

Second, the statute and its implementing norms should state the due diligence standard expressly: risk-proportionate authorisation criteria on safety, debris and financial responsibility, together with continuing supervision duties such as periodic reporting and prompt notice of incidents.

Third, domestic law should deal with Indian entities that launch abroad. It should require authorisation, treat authorised launches as procured for the purposes of domestic risk allocation, and require contracts with foreign launch providers to address cross-border liability and indemnity.

Fourth, the statute should allocate catastrophic risk expressly. A workable structure would combine operator liability, mandatory insurance scaled to the maximum probable loss of the activity, a defined point at which the State takes over the excess, and a statutory right of recourse against operators who breach the conditions of authorisation or act with wilful misconduct or gross negligence. The statute should also state the connection required for authorisation, such as nationality, incorporation, place of operation, launch or control, so that the 'appropriate State' question is settled for foreign-owned and Indian-incorporated entities.

Fifth, India should invest in the institutional capacity that diligent supervision depends on, including space situational awareness and record-keeping, and should align its standards with international guidance, notably the debris mitigation guidelines of the Committee on the

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Under International Law' (2006) 8 International Community Law Review 81; Timo Koivurova, 'Due Diligence' in Rüdiger Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (OUP 2010).

Peaceful Uses of Outer Space and the Guidelines for the Long-term Sustainability of Outer Space Activities, reviewing them as technology develops.[54]

9. Conclusion

This research paper analyze India responsibility and liability under international space law for private entities operating under its jurisdiction. Article VI of the Outer Space Activities states that it's the duty of state to authorise and continuously supervise the activities of private entities in outer space. However the treaty doesn't make the party state vicariously liable for every act or omission of private entity. India's responsibility under the treaty only arises from its own failure to meet the gn.vnv due diligence standards that authorisation and continuous supervision requires.

This paper doesn't state that india doesn't have any liability. Under the Liability Convention India may be liable as a launching State whether or not the operator's conduct is attributable to it: absolutely for damage on the Earth's surface, and for fault in space, including the fault of persons for whom it is responsible. Treaty liability and responsibility for breach of Article VI are separate and each has its own conditions.

[54] Report of the Committee on the Peaceful Uses of Outer Space (2007) UN Doc A/62/20, annex (Space Debris Mitigation Guidelines), endorsed in UNGA Res 62/217 (22 December 2007) UN Doc A/RES/62/217; Report of the Committee on the Peaceful Uses of Outer Space (2019) UN Doc A/74/20, annex II (Guidelines for the Long-term Sustainability of Outer Space Activities).