

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
National space law and security – an update (5)

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LIABILITY IN OUTER SPACE AND CHALLENGES OF NATIONAL SPACE ACT IN ISLAMIC
COUNTRIES SUCH AS IRAN

Abstract

One of the main issues in space law is the liability of states as well as other space actors, both governmental and non-governmental. However, the five-space treaties, and in particular the 1974 Convention of Liability (the Convention), have clarified the issue of states' liability for fulfilling their international obligations on compensation and has not paid any attention to the liability of the private sector. As stated in the Convention liability, the launcher states are liable for damages to the property and human beings on land or aircraft on board on base of absolute liability and they are liable for damaging in outer space on base of fault liability. They are required to pay total compensation or unlimited liability based on the damage they have done. However, Shari'ah law provides the limited liability for death and bodily injury on the basis of diyah. That is, the limited liability is based on the amount set by the Shari'ah. The diyah as a liability and compensation regulations are implemented in some Islamic countries such as Iran. Therefore, there is a conflict between liability in Iranian law and international space law in the event of damages to the persons such as foreign astronauts when Iran is responsible to pay compensation. What is clear is that the liability Convention is an international treaty, and Iran has accepted it, and the implementation of the international treaty on the basis that it is accepted by the Iranian legislator. However, to enforce international space regulations, it has been emphasized that states also formulate the principals such as liability in their national space act. Here comes the legal challenge. The national legislator cannot approve a national act such as national space act that is in conflict of Islamic law. The challenge is to confront two contradictory domestic acts if we want to approved liability on the base of the convention in space national act of Iran. Explaining the principles of liability in the Convention and the Principles of liability in Iranian Law, this article seeks to review the conflict law on liability and compensation in space law and Iranian law and provide a proposition to resolve the conflict on the base of liability insurance.