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Liabilities and responsibilities in respect of space activities

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Abstract
The Cambridge Dictionary defines liability as a fact that someone is legally responsible for something while responsibility has been defined as something that it your job or duty to deal with something.
As far as the term responsibility is concerned in the space laws context the laws of state responsibility are the governing principles which by when and how a state (in international law, a sovereign state sovereign country or simply a state is a nonphysical juridical entity that is represented by one centralized government that has sovereignty over a geographic area) is held responsible for a breach of an international obligation (a course of action that someone is required to take whether legal or moral).

Keywords: sovereign, peril, plaintiff's fault, act of God, absolute liability

1. Introduction
Introducing the liabilities and responsibilities as two seperate aspects the article makes a clear and obvious difference between the both. The section "Space Legislations through Legal Spectacles" presents the legal point of view going through the inception of important concepts of space laws and its provisions under the five milestone treaties and the other relevant attempts made so far. The article highlights some cases as an example of irrelevance of these unbinding international space treaties and agreements.
The problem to shoulder responsibility and liability under public international law for the regulation of the private space activities is also highly inflammable and begs an immediate attention. Our space law should see that we have a keen eye in this sphere and deal this highly sensitive issue by paying an immediate attention. Fixing liability for damage on the airline carrier and other such things should also have an elaborate and all-pervading description.

1.1 Space Legislations through Legal Spectacles
The present article deals with the legal aspects of the space legislation going through the inception of important concepts of the international space gatherings and their human prospectives.
The base of the space exploration are not just going into the the outer space, experimenting and planting of space objects and returning to the earth. It also includes the protection of the astronaut, peaceful uses of the outer space and the most important the conservation of the Mother Nature.
The giant leap of mankind taken on July 20, 1969 leaving the first human footprint on the surface on the Moon preceded by Yuri Gagarin's venture of the outer space made on April 12, 1961 were not just the space explorations. These were the favors we are privileged with and these pioneers needs to be acclaimed for the daring deeds. The Outer Space Treaty acclaims them as the envoys of mankind the outer space irrespective of their nationalities. Comprised of five major treaties made within the time period of twelve years from 1967 to 1979. The International Space Laws exist and advocates the rights of the astronaut's conservation of nature and above all the establishment of the liabilities for the space activities. The United Nations makes the states to render all possible assistance to the astronauts in the event of accidents. Through its resolutions the United Nations has provided the initial setting for law of the outer space laying down the rights and duties for the States regarding the space explorations.

1.2 Liability v/s Responsibility Regarding Space Law
Firstly it should be made clear that liability and responsibility are two separate aspects and should not be used interchangeably. Many or we can say almost all make the same sense for both the words.
The Cambridge Dictionary defines liability as a fact that someone is legally responsible for something while responsibility has been defined as something that it your job or duty to deal with something.
So before going further we need to deal with these difference comprehensively. First of all the term "liability is a legal term and the word "responsibility is a general or we can call it a moral words as (from very starting) we have been listening this words since our childhood. Furthermore liability being a legal word can be imposed by the court as various space treaties egg on it while constructing the Articles within the treaty and conventions. The compensation and other obligation which are supposed to be fulfilled on being violated are incorporated through the provision or system of liabilities procedures while in contrast to liability, responsibility is just supposed to be followed on the moral and ethical ground. One can be made liable but not responsible for something. In conclusion it is to be liable means to be legally responsible for something while being responsible is to be mature or trustworthy or answerable but not legally.
According to S. Bhatt the objective behind the State Liability is to strike a balance between the interests of the States carrying on lawful actitivies. The concept of State

Responsibility does not impose a duty to compensate the injury caused by the activities, which are not prohibited by the international law. The State is liable to the victims of lawful activities and the State is responsible to the wrongdoer. The State is responsible if it fails to cease the wrongful act.

In case where the act is lawful according to the international convention the State will not be asked to stop the space actitivies. The Outer Space Treaty and the Liability Convention does not clear this difference. The Outer Space Treaty does not involve payment for compensation but the Liability Convention involves the monetary payment. Article III of the Liability Convention confuses by advocating liability based on fault for damage caused in the outer space. The Outer Space Treaty does' not clear the claim of liability on air space and the outer space, but Liability Convention creates absolute liability on air space and liablity in the outer space. Claims under the Outer Space Treaty can be demanded when the other state is also a party to the treaty. It is silent about damage caused to other the state party who is not a party of the treaty. The state responsibility for the harmful acts of private persons is limited to the state negligency whereas the Outer Space Treaty makes the State completetly liable for the act of the private party. According to the Article VI Outer Space Treaty, The Outer Space Treaty implants the duty on the State to supervise private space activities but it does not define the word state.

Liability is in regard of Space Law (and in contrast to general international law), the most elaborated of the two Responsibility and Liability Principles as a special Liability Convention was devoted to develop the provisions of Articles VII of the Outer Space Treaty. It of course itself provides the basis. As to the necessary ingredients for space liability this leads us to the same conclusion as in respect of international liability: damage is the only indispensable criterion nor breach of an international obligation (objective fault), nor subjective fault in the sense of intent or negligence are necessary to invoke liability (in respect of damage on the earth or to an aircraft to begin with). International community must think about the contradiction that on one side the Moon and other the celestial bodies are for comman use and no country can claim its own right, on the other side countries like the USA and Luxembourg give access to its citizen to have a territorial right on the moon and other the celestial bodies.

The outer spcae activities including commercial activities, communication, space research, navigation tourism, broadcasting are increasing tremendoumsly. The State is responsible for the activities of private sectors. The State is indirectly responsible for all private activities. States have been gaining huge amount of profit since the last part of 20th century with more commercialization of space. This increament includes risk of damages, responsiblity and liablity.

Who will be responsible if the rocket blowsup after being launched or it creates harm to public at large?. If the burnt particles falls on the surface and cause, injury to common masses? Who will bear the responsibilities regarding these damages?

As far as the term responsibility is concerned in the space laws context the laws of state responsibility are the governing principles which by when and how a state (in international law, a sovereign state sovereign country or simply a state is a nonphysical juridical entity that is represented by one centralized government that has sovereignty over a geographic area) is held responsible for a breach of an international obligation (a course of action that someone is required to take whether legal or moral).

1.3 Types of Liabilities Regarding Space Exploration

Woken after the collision between Iridium and Cosmos satellite the international space community has now started searching reasons under the umbrella of nomenclature of liabilities. The collision resulted in increase in space debris.

The space communities started nodding heads and flew their accusations. In the midst of all these accusations the question arises that when will it be okay. No doubt all the satellites launched are under observation all through their lifetime and even-after they got derelicted but it is also not possible to track and compute every piece of orbiting man-made objects. Countering the US comment made for the Iridium 33 the Russian reply was the planned collision as a part of ASAT of US [1].

To prevent such impending threats there arises the need of determining the liabilities in a wider dimension. There are main three kinds of liabilities that can be discussed as follow.

1.3.1 Liability in Common Law

As Article III of the LC says, in the event of damage being caused elsewhere than on the surface of the earth to a space object of one Launching State or to persons or property on board such a space object by a space object of another Launching State the latter shall be liable only of the damage is due to its fault or the fault of persons for whom it is responsible.

The civil liability for damage is same as damage caused due to the breach of the contract. The tort or damage laws consider it the same whether it may be caused by an act or omission of the defendant as happens in most of the cases of this category. The words of Lord Atkin explains the matter more clearly.

According to S. Bhatt in common law liability is decided in the same way as any other breach is decided in the law of the contract and in the law of torts. The breach is measured by an act or omission of wrong doer because he has the duty of care. The duty is explained in the law torts by the landmark case Donoghue V. Stevenson [2] by Lord Atkin that says: you must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is your neighbour? The answer seems to be-persons who are so closely and directly affected by my act that I ought reasonably to have the in contemplation as being so suffered when I am directing my mind to the acts or omissions which are called in question.

Another concept of strict liability through which the wrong doer is strictly made liable without intension decided in the case *Rylands v. Fletcher* [3] that: If a person brings or accumulates on his hand anything which if should escape may cause damage to his neighbours, He does it so at his peril. If it does escape and cause damage, he is responsible howsoever careful he may have been and whatever

1 Dr. Sandeepa Bhat B. (ed.), *Space Law: In the Era of Commercialisation* (Eastern Book Company Pvt. Ltd. Lucknow, 2010). p152.
2 1932 AC 562: 1932 All ER Rep 1 (HL).
3 (1866) 1 Ex 265

precautions he may have taken to prevent damages. He can excuse himself by showing that the escape was owing to the plaintiff's fault or perhaps that the escape was the consequence or "vis major" or the act or God.

According to S. Bhatt the last case is adopted by most courts in common law jurisdiction. The Article II, IV and VI of the Liability Convention are based on this case

In India the Supreme Court in *M. C. Mehta v. Union of India* [4], decided that the Rylands v. Fletcher [5] case is inadequate in present dangerous activity and formulated a new role of absolutly liability which ought to be applicable in hazardous activities as such liability shall be different from the exceptions of Rylands v. Fletcher Rule

"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is your neighbour? The answer seems to be-persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so suffered when I am directing my mind to the acts or omissions which are called ml question"

"It is your first and foremost duty to keep your neighbour unaffected by an act or omission which could harm him. Here the question emerges who is your neighbour or vice versa would you like to be disturbed or injured by your neighbour? Anyone closely and directly affected by your act or you being affected by anyone's act. Both are in contemplation."

The excuse of the act of God can't be entertained on the part of someone who cause the damage that could have been escaped but he did not try to do so; It is only his responsibility however careful he may have been and whatever precautions he might have taken to prevent damage nor owing to plaintiff's fault he could be pardoned or any other excise.

The Articles 2nd, 4th and 6th of the Liability Convention go along-with the above case which backs the Absolute Liability for compensation to be paid for damage caused by the Launching State without flaming to plaintiff's fault or the act of God, the same discipline goes for the damage caused to the third party in an event of a joint launch and the compensation must be provided by the Launching States in appropriate proportion or division of compensation should on the basis of damage caused by either of two or three launching objects and such compensation must be qualified wholly or partially by the particular Launching States without exemption even the launch was under taken all the international norms on excuse of plaintiff's fault or of the act of God respectively.

Going a step of further the Honorable Supreme Court of India in one of its cases in *M.C.Mehta V. Union of India* [6]. Declares the above mentioned "strict doctrine" inadequate to meet the needs of a modern scientific world with hazardous and dangerous activity becoming very common. It gave a new term of "Absolute Liability" which ought to be applied in cases related to accidents caused by inherently hazardous activities without being entertained by

1. Plaintiff's own fault
2. Act of God
3. Violenti non fit iniria (or injnuria) means to a willing person, injury is not done (a common law doctrine which states that if someone willingly places themselves in a position where harm might result they are not able to claim against the other party in tort or delict)
4. Act of a third party and
5. An act done under statutory authority.

This above mentioned judgment of the Indian highest court of justice proves the innovative mentality of the same without being conservative and not following the age old and out dated concepts of English laws without applying much sense the Honorable supreme Court has outshine itself in field of laws.

1.3.2 Liability in Civil Law

The liability in civil laws appeared in the famous judgment of 1896 by the French Court held under Article 1384 of the French Code that says the plaintiff has to prove no more than that he has suffered damage from an inanimate object in the defendant's keeping.

In simpler words it can be described as the civil law demands the person who exercise for his benefit should be completely liable for the damages or injuries caused to others. It does not matter whether damage or injury was the result of his fault or not. A civil law forms by the presence of an act, a damage and an injured. This principle makes the person liable without proving his fault or if better said the mens rea or malice aforethought.

In civil law the person who excercises for his benefit, should be completly liable for the damages or injuries caused to others. It does not matter that damage or injury was the result of his fault or not. So there must be an act, a damage, an injured in civil law. This principle makes the person liable without proving the fault or mens'rea.

1.3.3 Liability in Domestic or Municipal Law

Defining in opposition to international laws a nation practices its domestic or municipal laws which include the State (in term of federal/ union of states), provincial, territorial, regional or local laws. In case of India the law making emerges under three lists namely the Union List, the State List and the Concurrent List described in 7th Schedule of the Constitution of India containing 100, 61 and 52 subjects respectively. These laws need not to run parallel to the international laws.

In the conflicts arising after the unparallelism of both the laws the States Partners to the Vienna Convention are still obliged to meet its obligations under the Treaty (Article 27th of VC of 1969). The International Law and Treaties are available but many countries have also developed their domestic laws in order to clarify between private and public sector. These laws define the relations and responsibilities between the launch and operation which are being sent into space.

Conclusion

In conclusion it can be finalized that there is no commonly agreed definition of the meaning of the term. "Self-contained regime" under international law. The organization like the World Trade Organization (WTO), The European Union (EU), the International Law Commission (ILC) have draft with the issue of self-contained regimes in their

4 (1987) 1 SCC 395.

5 The exceptions to the rule are: (i) Plaintiff's own fault (ii) Act of god (iii) Volenti non fit injuria (iv) Act of a third-party and (v) an act done under statutory authority.

6 (1987, 1 Sec 395)

proceedings but have not gained an independent character allowing it to the an obligatory body of laws, now the space law governing a specific matter to general international laws, needs to determine whether this self-contained regime enjoys priority over the other or not.

This analysis of various international laws framed under various international treaties and conventions with the domestic, civil, common regional etc types of laws of the States Parties to the international treaties (these rules or laws) may be used as special or be used as the governance of specific subject matter overriding the matter of general situation

References

1. Dr. Sandeepa Bhat B. (ed.), Space Law: In the Era of Commercialisation (Eastern Book Company Pvt. Ltd. Lucknow, 2010, p152.
2. 1932 AC 562: 1932 All ER Rep 1 (HL).
3. (1866) 1 Ex 265
4. (1987) 1 SCC 395.
5. The exceptions to the rule are: (i) Plaintiff's own fault (ii) Act of god (iii) Volenti non fit injuria (iv) Act of a third-party and (v) an act done under statutory authority.
6. 1987, 1 Sec 395)