

## Student questions: Timiebi Aganaba colloquium on “The Space Force: From Rhetoric to Reality”

2/5/20

### 1. INTERNATIONAL SPACE LAW

#### Questions:

*Do you believe there would be laws governing the mining of passing mineral bodies (like slow moving meteorites)*

*If one country shoots down an opposing country’s space craft and it falls to earth and damages a neighboring country (maybe a city) who would be responsible for damages?*

#### Answers:

The Public International Law applicable to space activities can be found here:

[https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev\\_2\\_0.html/V1605998-ENGLISH.pdf](https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0.html/V1605998-ENGLISH.pdf). The main principles are set out in the *Outer Space Treaty* <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html> (Other laws apply for space applications like remote sensing, telecommunications )

There is currently a lot of debate right now about how to apply the *non-appropriation principle* under Article 2 of the Outer Space Treaty and whether anyone can own or exploit space resources. The US and Luxembourg have recently passed laws saying their nationals can engage in space mining. Is this the beginning of a trend of national laws acting to address the gap (lacunae) in international law? See:

<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1697&context=yjil>

From the perspective of being compensated, there is a difference between “responsibility” and “liability” in international law. Article VI and VII of the Outer Space Treaty address these. The difference is that in both cases there may have been a breach of law, but to be liable means a “damage” was caused. Here the *Liability Convention* applies <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introliability-convention.html> “Responsibility” is challenging as there must have been a breach of international law and it is not clear what international law applies to shooting down a satellite. For instance, is it a legitimate military target?

<https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1225&context=pubs>

### 2. GOVERNANCE ISSUES

#### Questions:

*One of the things you mentioned during the last part of of the presentation is that we are bound to the rules of Earth on space, to be more specific it was related to citizenships.*

*Do you believe that in space we should be known only by our planet of birth rather than nation?*

*Is it possible/realistic to develop a UN-like organization that could exclusively govern international relations in space?*

#### Answers:

Article VIII of the Outer Space Treaty states that: “A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body.” This ties “personnel” to a State of Registry who will retain “jurisdiction and control” over them. The Treaty was referring to a time where all space travelers were astronauts who work for the

Government. Now, with space tourism on the horizon, the US FAA have a regulatory regime for “crew” and “space flight participants”. See:

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/ast/human\\_space\\_flight\\_reqs/](https://www.faa.gov/about/office_org/headquarters_offices/ast/human_space_flight_reqs/)

The United Nations Office for Outer Space Affairs (UNOOSA) is the United Nations office responsible for promoting international cooperation in the peaceful uses of outer space. UNOOSA serves as the secretariat for the General Assembly's only committee dealing exclusively with international cooperation in the peaceful uses of outer space: the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS). <https://www.unoosa.org/oosa/en/aboutus/roles-responsibilities.html>

### **3. CLARIFYING THE LAWS APPLICABLE TO MILITARY USES OF SPACE**

#### Questions:

*Why wouldn't the international laws (like the Geneva convention) just be adopted for space? How could future international space law limit the capabilities of America's Space Force?*

*How will a McGill Manual of International Law help with the problems that will arise from overpopulation of satellites in the next few years and how large a role do you think the manuals will play as more attention is turned toward our future in space?*

#### Answers:

Under Article III of the Outer Space Treaty, “States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the moon and other celestial bodies, **in accordance with international law, including the Charter of the United Nations**, in the interest of maintaining international peace and security and promoting international co-operation and understanding. “Arguably, through this provision, you can apply other international law (including the Geneva conventions) to Outer Space activities when the specific issue at hand is not addressed specifically in the Space law treaties. The extent of this is unclear.

<https://www.law.upenn.edu/live/files/7859-conflicts-in-space-stephens-steerjan-2016pdf>

International laws can limit the capabilities of the Space Force, but only apply to these countries to the extent that they agree to be bound by them. There is no international police that enforces international agreements, except to the extent that the United Nations may authorize member states to use coercive or even military sanctions. The UN Charter, particularly Article 51 gives States an almost blanket right to protect themselves: “*Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.*”

<https://legal.un.org/repertory/art51.shtml>

The MILAMOS Manual on International Law Applicable to Military Uses of Outer Space, undertaken by McGill University, will “provide an independent, international, and objective clarification of the rules of international law applicable to military uses of outer space could possibly dissuade the actual use of force and avoid future conflicts (wars) in outer space.” The Project covers “international law applicable to military uses of outer space in time of peace, including in times posing challenges to peace,” but not during the period of armed conflicts. It does not intend to propose or create new law. <https://www.mcgill.ca/milamos/>