From Space Law to the Law of Space Activities

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Is there a coherent set of rules to govern outer space?

Is the OST still valid?

Private perspectives

Potentially harmful Interferences

Revision or what?
Law governing outer space activities: basic elements

Definition of space law

Notion based on the content of the rules

Rules belonging to different legal systems (international law/national legislation) and different branches of law (public law/private law).

Definition of space law based on its object: the regulation of space activities.

Multidisciplinary perspective.
Relationship between aspects of public and private law

Public Law nature of the legal framework on space activities
Safeguarding the interests of the State (national security, defense and so on)
Commercialization of space activities
Role of private and commercial law
Distinction public / private law to identify groups of norms and determine the legal regimes applicable to different aspects of the same space activity.
Space Law

Art. VI, Outer Space Treaty, 1967

States responsible for their *national activities* in outer space

Responsibility whether such activities are carried on by governmental agencies or by private entities

Activities of non-governmental entities in outer space subject to authorization and continuing supervision by the *appropriate State*.

Equivalence public / private activities for the purposes of State responsibility for national activities in space as an exception to the principles of international law.
Main commercialized space applications

New commercialization phase of space activities

US → liberalisation of the satellite communication market

Privatization of intergovernmental satellite organizations: INTELSAT, Inmarsat, Eutelsat

New applications with high socio-economic impact in the field of Earth observation, satellite navigation and the transition to Information Society
Legal challenges of new sectors

Structural changes in the space industry

*Traditional industry* → companies focused on well-established lines of business, in partnership with Governments, in sectors with high value, low volume of sales, and declining growth.

*New ventures* → flexible organization focused on new technologies, innovative and taking risks. New programs of launches to ensure easier access to space through the reduction of costs (democratization of space)
Air and space law

Comparative perspective

Air law – Law-making within the framework of ICAO through technical norms adopted by opting out procedures.

Space law - United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) without normative power.

Legal regime of air and outer space
Every State has complete and exclusive sovereignty over the air-space above its territory.

Outer space: regime of free access, exploration and use. Exploration and use of space qualified as province of all mankind → res communis omnium

No boundary legally established between the two areas
New space race

Space tourism → hybrid features

Sub-orbital flights

Need for an ad hoc regulation

Commercial Launch Amendment Act, US, 2004
International rules governing space activities *Treaties*

Property rights over natural resources of celestial bodies

Hague WG on Space Resources Building Blocks

International cooperation for the benefit of mankind

Private Law Instruments: Toward a Trivialization?