

NALSAR University of Law

International Law on Remote Sensing

By

Bangaru Laxmi Jasti,

Research Scholar, NALSAR

Research Associate, Centre for Aerospace and Defence Laws (CADL), NALSAR.

Scheme of Study

- ▶ International Law
- ▶ International Space Law
- ▶ International Law on Remote Sensing

What is International Law?

- ▶ International law is a collection of laws that are accepted as governing the relations between states.
- ▶ The collection of rules that nations accept as binding insofar as their interactions with one another.
- ▶ International laws are established to deal strictly with issues that would concern countries as a whole, rather than focusing on the rights of the individual citizens that live in those countries.

Definitions of International Law

- ▶ International law can be defined as treaties or agreements or conventions between the countries to have a smooth relationship between the nations to carry business and to interact with each other.
- ▶ **By Oppenheim:** “Law of Nations or international law is the name for the body of customary law and conventional rules which are considered binding by civilized states in their intercourse with each other.”
- ▶ **By Alf Ross:** Alf Rose defines the term international law as under:
“International law is the body of legal rules binding upon states in their relations with one another.”
- ▶ **By Lawrence:** According to him, “international law is the rules which determine the conduct of the general body of the civilized state in their mutual dealings.”
- ▶ **By John Austin,** a leading English writer on Jurisprudence: Described International Law as the one consisting of positive International morality and opinions or sentiments which are followed by the nations as per their wish.

Principles of International Law

- ▶ There are two principles of international law: *jus gentium* and *jus inter gentes*.
- ▶ *Jus gentium* is not a statute or legal code, but more of an accepted body of laws that governs the relations between countries.
- ▶ The established rules govern the relationship between two nations mutually
- ▶ *Jus inter gentes*, on the other hand, refers to the body of treaties and/or agreements that are mutually acceptable to both countries.

Types of International Law

- ▶ Public International law: A body of legal rules which regulates the relation of states inter se as well as their relations with other non-state entities is said to be Public International law.
- ▶ Private International law: That branch of International law which determines which law is to be applied to a specific case containing a foreign element is called Private International law.
- ▶ Supranational law: Supranational law is a form of international law, based on the limitation of the rights of sovereign nations between one another.

Sources of International Law

- ▶ Customs
- ▶ Primary Sources and Secondary Sources
- ▶ Hard Law and Soft Law
- ▶ Are UN General Assembly Resolutions source of International Law?

Source of International Law under ICJ Statute

As per Article-38 of ICJ Statute, sources of International Law -

- ▶ Treaties between states/International Conventions
- ▶ Customary International Law
- ▶ General principles of law recognized by civilized nations
- ▶ Judicial decisions, the writings of “the most highly qualified publicists”, and other sources.

Subjects of International Law

- ▶ The term subject of International Law refers to entities endowed with legal personality, capable of exercising certain rights & duties under Int. legal system.
- ▶ States
- ▶ International Organisations?
- ▶ MNCs?
- ▶ Individuals?

Implementation of International law

- ▶ It is up to the countries to enforce the treaties as the laws, but there are some international organizations like the United Nations to enforce certain treaties as laws to promote international peace and security.
- ▶ Regarding this, there are also two concepts called consent-based governance and not consent-based governance.
- ▶ Consent-based governance: A state is not beholden to put up with the law unless it has given its consent to the specific plan of action.
- ▶ Not consent-based governance: There is also not consent-based governance in international law in which the country does not give consent but that still must be followed by the nations.

International Space Law

- ▶ International space law may be defined either in terms of the place of the activities of states (outer space), or in terms of the character of their activities (space activities), or in terms of both.
- ▶ The Soviet legal expert *Evgeny Korovin* defined space law as a set of rules regulating the legal relations between people and between states in outer space.

- ▶ Soviet jurist *Marklen Lazarev* defined international space law as “a set of legal rules regulating, on the basis of the principles of peaceful coexistence, the relations between the states of the Earth in the context of space exploration.”
- ▶ Hungarian legal expert *Dr. Gyula Gal* defines space law broadly as “a set of legal rules regulating the intra- and interstate relations that arise in exploring and using outer space and celestial bodies (space activities), and the legal rules covering the consequences of such activities from the standpoint of the rights of individuals.”

Development of Space Law

- ▶ Space law can be described as the body of law governing space-related activities.
- ▶ Stages of development of space law -
 - ▶ Stage-I - before 1957
 - ▶ Stage-II - from 1957 to 1979
 - ▶ Stage-III - from 1980 to present

International Law on space laws

- ▶ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1967 - OUTER SPACE TREATY
- ▶ Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 1968 - RESCUE AGREEMENT
- ▶ Convention on International Liability for Damage Caused by Space Objects, 1972 - LIABILITY CONVENTION
- ▶ Convention on Registration of Objects Launched into Outer Space, 1975 - REGISTRATION CONVENTION
- ▶ Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 1979 - MOON AGREEMENT

Law on Remote Sensing

- ▶ Outer Space Treaty, 1967
- ▶ United Nations Remote Sensing Principles
- ▶ Domestic Laws/policies/regulations

Outer Space Treaty

- ▶ The OST is based on the principle of freedom of space activities, meaning that no State can be impeded from carrying out space activities or be requested to obtain prior authorisation to do so. Therefore, any State is entitled to launch satellites into space for the purpose of remote sensing and this choice cannot be lawfully impeded by other States.
- ▶ Article VI of the OST states that private or commercial entities must be authorised by their national State, which then must continually supervise their activities.

UN Remote Sensing Principles

- ▶ The UN Remote Sensing Principles were established under UN GA Resolution 41/65 of 1986.
- ▶ The Principles lay down the rights and duties of the actors involved in remote sensing activities and establish the rules regarding access to and distribution of data at an international level.

Provisions of the Principles

- ▶ Freedom of remote sensing
- ▶ Respect for the rights and interest of the sensed state
- ▶ Specific data rules

Limitations of Principles

- ▶ The UN Remote Sensing Principles are relevant to only a limited number of applications for civil purposes only. Specifically: natural resource management, land use, and protection of the environment.
- ▶ It is clear that military applications are not included within the scope, and it is currently uncertain whether dual-use satellites are regulated.

END