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LIABILITY WAIVERS AND PLANETARY DEFENSE MISSIONS: THE GOOD SAMARITAN PRINCIPLE

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What if a planetary defense mission goes wrong?

- Error in orbit correction or fragmentation causing modification or multiplication of the impact site
- Direct damage caused by spacecraft from the planetary mission

What are the international legal consequences?

- The International Law imposes payment of compensation to the 'victim State' for damages caused by space objects in almost any circumstances
- Is it fair for a planetary defense mission?
- **Research question:** explore alternatives to the current international liability regime applied to planetary defense missions, offering options that could contemplate liability waivers

Concept of Liability in International Law

- Different from **Responsibility**: internationally wrongful acts, violations to International Law (e.g. NED)
- **Liability**: Injurious consequences arising out of acts not prohibited by International Law (e.g. space launching and other planetary defense alternatives)
- Obligation to prevent harm and eliminate or mitigate damages
- Sources: International customs, 1967 Outer Space Treaty, 1972 Space Liability Convention (SLC)

Types of Liability in International Law

- **Fault-based Liability:** intentional or a negligent act
- **Strict-liability:** Risky activities. Compensation even if there is compliance with standards of care
- **Absolute Liability:** more rigorous than strict liability, restricted exonerations clauses (GOLDIE, 1965)

Space Liability Convention (SLC)

Launching State Concept in the Space Liability Convention

- States which launches or procures the launching
- State whose territory or facility a space object is launched

Types of Liability in the Space Liability Convention

- **Absolute Liability:** damages caused on Earth and aircraft flying
- **Fault-Based Liability:** other space objects (e.g. satellites)

Issues for Planetary Defense Missions in the SLC

- Absolute liability seems unfair for planetary defense missions
- No standards of care for fault-based liability
- No liability exoneration based on force majeure, necessity, or distress (FOSTER, 1972; KERREST & THRO, 2017)
- Disproportionate liability for all participants ('procures the launching' vagueness)

Alternatives to Liability Exoneration and Waivers for Planetary Defense Missions

- Inspiration on “Good Samaritan Principle” in domestic law: legal protection to those who help injured, sick or in danger person

How?

- Article V of SLC “apportioning agreements” for planetary defense missions. ISS Agreement experience.
- New treaty on planetary defense or a SLC Ammendment
- United Nations Security Council Resolution

Thank you!

Questions?

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