

FOREWORD

SOMETHING OLD AND SOMETHING NEW: THE APPLICATION OF COMPARATIVE LEGAL ANALYSIS TO THE LAW OF COMMERCIAL HUMAN SPACE FLIGHT

*By Joanne Irene Gabrynowicz**

This volume of the JOURNAL OF SPACE LAW demonstrates that space law has reached another milestone in its development. The evolution of space law at the national and international level has reached such a degree of development that it invites analytical comparisons. The subject of this volume's articles is comparative law as applied to the law of commercial human space flight.

Comparative law has long been accepted as an important analytical device in determining the overall development in the content and application of law and legal principles in any given corpus of law. Comparing the differences and similarities among laws yields a greater understanding of some of the qualities valued in the law and by its practitioners. Is there enough uniformity to be able to articulate a valid precedent? Are there significant enough differences to call into question the credence of an ostensible principle? Are the differences or similarities the product of culture, jurisprudence, or both?

In his article, *The Application of the Death on the High Seas Act (DOHSA) to the Commercial Space Flight Industry*, Jeffrey Robert Kuhns compares the application of jurisdictional princi-

* Joanne Irene Gabrynowicz is the Editor-in-Chief of the JOURNAL OF SPACE LAW. She is also a professor of space law and remote sensing law and the Director of the National Center for Remote Sensing, Air, and Space Law at the University of Mississippi School of Law. Prof. Gabrynowicz was the recipient of the 2001 Women in Aerospace Outstanding International Award and the 2011 International Institute of Space Law's Distinguished Service Award. She is a Director of the International Institute of Space Law and a member of the American Bar Association Forum on Air and Space Law.

ples within U.S. federal law to maritime and aviation law and considers its potential applicability to space law. Mr. Kuhns observes how U.S. Federal admiralty jurisdiction was originally intended to address marine disasters and was later applied by courts to aviation accidents. To do this, Mr. Kuhns notes where a court reasoned that DOHSA could apply in both a horizontal and vertical direction. Therefore, argues Mr. Kuhns, using this same line of reasoning, DOHSA should be interpreted vertically to also encompass space flight.

In a more classic example of a comparative legal analysis, Sara M. Langston analyzes the development of space law concerning suborbital flight by addressing the similarities and differences among the national laws of various States and international law. Ms. Langston's comparison highlights international air and space law regimes as applied by five States with an interest in conducting commercial space transportation. Using the United States' regulations as a basic blueprint, Ms. Langston provides insight into the background and current status of national space law frameworks. Through this analytical work, she presents the main legal issues, approaches, and arguments for legislating and regulating commercial human space flight.

This volume of the JOURNAL OF SPACE LAW contains reviews of three of the most recently published books in space law: *National Regulation of Space Activities*¹, edited by Ram Jakhu, reviewed by Michael Dodge; *Space Law: A Treatise*², by Francis F. Lyall and Paul B. Larsen, reviewed by Stephen E. Doyle; and *Who Owns the Moon? Extraterrestrial Aspects of Land and Mineral Resources Ownership*³ by Virgiliu Pop reviewed by Chris Kalantzis. A bibliography that contains the most recent developments in laws, regulations, cases, administrative decisions, articles, books, and reports in aviation and space law completes the volume.

¹ NATIONAL REGULATION OF SPACE ACTIVITIES (Ram Jakhu ed., Springer 2010).

² FRANCIS F. LYALL AND PAUL B. LARSEN, SPACE LAW: A TREATISE (Ashgate Publishing, 2009).

³ VIRGILIU POP, EXTRATERRESTRIAL ASPECTS OF LAND AND MINERAL RESOURCES OWNERSHIP (Springer, 2009).