

Osmosis Magazine

Volume 2019
Issue 2 *Osmosis Magazine - Fall 2019*

Article 5

2019

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Recommended Citation

Dinh, Nathan (2019) "Law and Order: Zero Gravity," *Osmosis Magazine*: Vol. 2019 : Iss. 2 , Article 5.
Available at: <https://scholarship.richmond.edu/osmosis/vol2019/iss2/5>

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Law and Order: Zero Gravity

Nathan Dinh

In August 2019, a woman named Anne McClain logged into her ex-wife's private bank account, violating privacy laws.¹ While in any other case this would be just another issue of identity theft, this was no ordinary crime. Rather, McClain was 254 miles above the Earth, travelling 17,150 miles per hour aboard the International Space Station when she allegedly used a NASA-registered computer to log onto her estranged wife's account. Hers was the first crime committed off planet Earth, and it raises the question: how do countries decide who investigates and prosecutes crimes committed in space? As space tourism, interplanetary travel, and international involvement in space grow, the legal questions of space exploration and research have become increasingly complicated and technical.

Given its all-encompassing nature, space law, defined as "the body of law concerning space-related activity,"² is the result of international relations and cooperation. The process of establishing cosmic legalese began in 1958 when the United Nations established the ad hoc Committee on the Peaceful Uses of Outer Space, just one year after the Soviet Union's launch of Sputnik, the first satellite in Earth's orbit, and Laika, the first animal in space.³ The Committee was made permanent in 1959, and in 1961 they passed Resolution 1721, which formally established the body of space law for the first time. So far, the Committee has passed five international treaties and five resolutions dealing with issues such as rights to exploration, exclusion of claims by any country, nuclear weapons in space, and treatment of astronauts.³ In one treaty, the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, the UN established that "the Moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means."⁴ In other words, countries cannot claim any property or region on the Moon. It should be noted, however, that only 18 countries have ratified it and that India is the only signatory that actually has space capabilities.⁴ Regardless, this has not stopped companies like LunarLand or Moon Estates from trying to sell "Lunar Land" or "moon acres" for as low as \$29.95 to \$52.60 per acre.^{5,6} Through these treaties, the UN has attempted to coordinate international cooperation in all things space, with restricted success.

Apart from UN treaties, the International Space Station specifically is governed by three different agreements. These rules were made by the five space programs involved with the ISS –the United States,

Russia, Canada, Japan, and the European Union.⁷ The first agreement is the International Space Station Intergovernmental Agreement, or IGA, which was signed in 1998, establishing the basic framework of operation on the ISS. The second includes the four memoranda of understanding between the United States and the other four organizations, since NASA is understood to be manager of the ISS. These specify the exact terms for management and logistics aboard ISS between each country. The third is the various other agreements, including those establishing codes of conduct, criminal jurisdiction, and other behavioral expectations of the astronauts. The most relevant section to astronaut Anne McClain is the clause that establishes that the astronaut's native country will have jurisdiction over any crimes committed by the astronaut in space.⁸ So when McClain returned to Earth later in the year, she was investigated by the U.S. inspector general. There are no current updates available on the outcome of her case. Despite the seemingly complicated nature of her crime, previously established international agreements allowed for a peaceful investigation into astronomical activity.

Universities across the country have started programs specifically for space law. In 2013, for example, the University of Mississippi began offering a Masters in space law.⁹ The curriculum includes courses in international space law, space security law, and U.S. Space Law. The University of Nebraska-Lincoln began offering a Doctorate of the Science of Law for people with JDs or PhDs who want to author a book on space law-related topic.¹⁰ Although an intergalactic senate may not be in making for the next millennium or two, space law is a growing field that combines the sciences with the legal field. For those interested in international law, diplomacy, and science, space law is a rapidly expanding field that may be the fit for you.

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