

Legal Issues Related to Space Exploration (13)

Present and future regulation of space exploration and exploitation: general issues (1)

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SOME LEGAL ASPECTS OF SPACE EXPLORATION

Abstract

Since the early days of mankind, people have deployed an impressive energy and delivered astonishing efforts to extend the domain of their knowledge. Understanding surrounding nature, human relationship, grabbing abstract concepts seem carved in the DNA of the human species. Above all, apprehending spaces on earth, then at sea and finally in the air above has been a recurring challenge for civilizations. The act of exploration is rich in meaning and purpose: behind the discovery of new territories, of new areas, there is always the idea of appropriation, of dominance. Even in their most philanthropic quest, in scientific research dedicated to the benefit of mankind, human beings seek to get hold of new wealth and thereby, increase their power to make the world look a little more like they wish. Today, the legal framework for space exploration still needs to be completed. Principles and provisions already exist but no sufficient consensus could be reached to make them effective. Participation by States in the 1979 UN Moon Agreement, despite being adopted through a UNGA resolution, has remained very poor with no major space faring nations becoming party to it. Among all the reasons which have been proposed and reviewed to explain this relative failure, one seems particularly relevant. It is related to the fact that States involved in space exploration programs and projects have not yet stated what purpose they want to achieve through such activities. What is the ultimate finality of exploring space? Is it research and development for technological progress? Is it a better understanding of our planet and of its cosmic environment? Is it a quest toward the origin of life or toward other forms of life? A search for new natural resources? Or is it about finding a new home for human kind? With Article II of the 1967 UN Outer Space Treaty prohibiting the appropriation of outer space by means of national sovereignty, States have made clear what they didn't want. With this principle, they left open the question whether exploration of outer space, of celestial bodies, of cosmic phenomena should be subject to a specific international regime beyond national interests and control. The 1979 UN Moon Agreement came with a possible answer to that question. The idea of considering celestial bodies' resources as the Common Heritage of Mankind was everything but stupid...