

Legal Issues Related to Space Exploration (13)
Specific legal issues of space exploration and exploitation (2)

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PROPERTY RIGHTS IN OUTER SPACE - PERSPECTIVES AND INSIGHTS

Abstract

During the last decade until now, the character of space activities has fundamentally changed from public purposes to commercial ones. In light of the fact that space activities have a significant impact upon the welfare of humanity and society, it is necessary that there exists clarity in the utilization of outer space.

This paper assesses the legal regime for the protection of technology use and new inventions in an outer space. Taking into consideration the inventions in relevance to outer space activities, one can argue that space-related inventions can be made and can be used, either on earth or in an outer space. The fact that the property laws are developed in strong associations with territorial and sovereignty of state, whereas an outer space is outside any of such state's territory, is one of the several critical issues that this paper seeks to achieve clarity on.

The current corpus juris spatialis is vague and riddled with inconsistencies as regards the issue of establishing a concrete regime of property rights on moon and other celestial bodies or parts thereof. Hence, the paper seeks to delve into a thorough analysis and interpretation of the governing regime in the contentious arena, whereby I shall elucidate upon the gaps left and the consequent imparting of a nebulous character. Concerning the Moon Treaty, it introduces the much lauded and maligned concept of the "common heritage of mankind" to the considerations of space property law. Therefore, I would contend that the common heritage principle must be defined in light of the Third LOS Convention. I shall further seek to put forth cogent economic arguments, favouring a regime of private property rights in outer space, evidently reflecting the essential basis of all human behaviour, which has been historically (though non-euphemistically) called the "Tragedy of the Commons." Besides, the international regulatory regime presently does contain some provisions which are invaluable to private exploitation of lunar minerals. Emphasis shall be laid on kinds of moratoria, if any, feared by the developed countries: a legal restriction against mineral exploitation and a de facto restriction which results from the ambiguity of the current treaties. Finally, I shall suggest alternative models of working out an efficient as well as equitable Property Rights Regime in outer space, which would take into account the interests of both the developed and the developing world at the same time.