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RECALIBRATING THE ‘COMMON HERITAGE OF MANKIND’ PRINCIPLE TO CONTEMPORARY
DEVELOPMENTS: A CASE OF LUNAR MINING**Abstract**

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (“the Outer Space Treaty”) left the issue of property rights in Moon and other Celestial bodies wide open. The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (“the Moon Treaty”) was incorporated to address the said issue. However, no major space faring nation is a signatory to the Moon Treaty. It was termed a failure, even by its supporters. The corpus Juris spatialis is governed by the ‘res communis’ doctrine and the ‘Common Heritage of Mankind’ principle. These principles are a strong safeguard for the interests of those States that has at the present time, little or no active space program of their own. However, technological advancements have made possible exploitation of resources of Moon and other asteroids- something that was considered impossible at the time of drafting of these principles. This article aims to further the cause of Lunar mining by highlighting the principle points of controversy such as a moratorium on exploitation of the resources of the moon and other celestial bodies, establishment of a governing regime and Prohibition on private resource property rights. The analysis of these two documents cover the following aspects:

- Freedom of Use and Exploration of Outer Space,
- Exploration of Outer Space for the benefit of all Mankind,
- Sovereignty over Celestial Bodies,
- The duty to avoid harmful contamination of Celestial Bodies and
- To inform UN about the activities concerned with the exploration and the use of Moon.

Although it can be argued that the Moon Treaty does not have any binding effect, the absence of positive legal protection is a hindrance to the development of Lunar Mining. This paper concentrates on the need to re-think the terms of the treaty to incorporate legal fortification of property rights consistent with the “common heritage of mankind” principle.

Having addressed the legal issues, the second section of this paper concentrates on the technological and economic aspects of Lunar Mining. This paper advances a case for In- Situ Resource Utilization, necessary to support long term missions on the Moon from economic and technological perspectives. This in turn helps to reduce cost of maintenance and transportation and provides the option of self-sufficiency. This paper also analyses the economic aspects of Lunar and Asteroid Mining.