

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Moon and Mars Settlement: Open Legal Issues (2)

Author: Prof. Sandeepa Bhat
National University of Juridical Sciences, India

LEGAL ISSUES SURROUNDING HUMAN SETTLEMENTS ON THE MOON AND OTHER
CELESTIAL BODIES

Abstract

With the shortage of space and resources on earth to support increasing human population, plans are devised for human habitation on the moon and other celestial bodies. While the State agencies of the developed States are involved in implementing such plans from a long period of time, the private space players are not far behind in involving themselves in such endeavours. Rapid scientific and technological innovations are indicating the fact that the idea of human settlement on the moon and other celestial bodies is not a far-fetched dream. However, the possible legal impediments under the international space treaties as well as under conflicting municipal laws seem to be the major concerns in the practical implementation of such a fascinating idea. To start with, it is significant to bear in mind that the international space law has developed on the basis of the principle of common rights as against individual rights. In furtherance of this spirit of common rights, one of the fundamental principles of international space law is the principle of national nonappropriation enshrined under Article II of the Outer Space Treaty [OST] 1967. The idea of celestial settlement is seen as a threat to this fundamental principle as human settlements might lead to the claim of State sovereignty and consequently national appropriation in contravention of Article II. An incidental question that arises out of such settlements is also the possibility of private property claims and rights for resource exploitation by the settlers, which again brings forward debates under Article II of the OST and Article 11 of the Moon Agreement 1979. Space environmental protection is another area of concern arising out of celestial settlements. While the space environment is known to be fragile, the current treaty norms under Article IX of the OST and Article 7 of the Moon Agreement are grossly inadequate to regulate space pollution. Added to this, the liability norms under the space treaties are human-centric, and hence, they don't fix any liability for damage caused to space environment. Another limb of concern in celestial settlements stems from the need for regulating the activities of settlers. While there would be concerns about the applicable law governing the human activities, exercise of jurisdiction and law enforcement would become much more complicated in the absence of judiciary and executive machinery on the celestial bodies. Hence, the celestial settlements need to be organised and well planned to avoid the situation of costs outweighing the benefits in economic, social and legal sense.