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COMMERCIAL SPACE MINING: NATIONAL LEGISLATION VS. INTERNATIONAL SPACE LAW

Abstract

The exploration of space originally gained impetus due to scientific interest and later owing to political and military strategies of the super powers. Today, not only USA and Russia but many developing economies globally are interested in undertaking activities in outer space. The economic considerations of undertaking mining in space is obvious given the abundance of resources available on the Moon, on Mars and the asteroids. The need for space mining is further necessitated by the growing scarcity of metals and mineral resources on Earth. Currently resources such as water necessary for sustenance of persons travelling into space, are being transported from Earth. Extra-terrestrial mining could cut down the costs of space travel and in the future, also provide material resources necessary for life on Earth. Private companies such as Planetary Resources, Moon Express, iSpace etc. across the globe are investing in the exploration of space. In the light of these commercial activities, countries such as USA and Luxembourg have already passed national legislation legalising the activities of these corporations and allowing them to appropriate to themselves the resources mined through their operations, without granting ownership of celestial bodies thereby complying with the Outer Space Treaty. The OST in conjunction with four other Treaties govern the space activities of nations. There is a pressing need to establish an international regime governing the aspects of ownership of resources mined from outer space, which has been recognised by various countries at the COPUOS Meeting in 2017 and 2018. This paper seeks to analyse the policy and legal implications of undertaking mining in space by commercial entities. The paper contemplates the possibility of conflict between the general principles of international space law contained in the five treaties with national legislations passed by USA and Luxembourg and more recently, UAE. There could be divergent views with some countries retaining all rights and some granting commercial entities broad rights. A more unified approach by the international community on the subject of space mining is suggested which would harmonise the interests of the states as well as commercial players. The aim of this paper is to identify the global legal and policy challenges due to space mining activities and suggest a harmonised international framework which would benefit corporations and states in utilising the resources mined from space.