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ASTEROID MINING & ITS LEGAL IMPLICATIONS

Abstract

As mankind's activities in space expand and evolve at a rapid place, this paper looks at a landmark component of this evolution- the concept of asteroid mining. As we see a shift in the parties engaging in space activities, with private entities/sector now joining government agencies, the need to clarify and codify a space regime applicable to all becomes critical. The purpose of this paper is to explain the process of asteroid mining in general, and the need of a legal framework to regulate it in particular. While the nature of asteroids and the reasons to mine them, given their vast exponential potential is first explained in brief, the paper then moves on to discuss the viability of mining Near Earth Asteroids (NEA's) and critically comments on the existing processes to do so. The crux of the paper lies in the analysis of the existing legal regimes – with the Outer Space Treaty specifically, where its lacunae are highlighted. These treaties were signed when near-earth asteroid mining was unfathomable, and accordingly these laws must now be amended prior to commencing mining exploits in space, in order to prevent foreseeable conflict. While suggesting reforms, the need for a new and comprehensive legal framework is stressed, and the formation and working of a new International Space Body (ISB) is suggested and explained. The reforms or overhaul proposed, in addition to the ISB, also include the procedure to deal not only with dispute resolution, but also prevention of disputes in the first instance. The paper concludes that due to the advancement of technology and scientific know-how, the current legal machinery is inadequate to deal with the unique developments in space we see today and will see in the near future. Measures to correct this are put forward, while emphasizing that in forming the new regime, a balance between commercial opportunities in the industry and the inviolable fundamental principles of space law which are the foundation of future treaties, must be struck.