

60th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
9th Nandasiri Jasentuliyana Keynote Lecture on Space Law and Young Scholars Session (1)

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THE RELATIONSHIP BETWEEN APPROPRIATION AND OWNERSHIP IN THE CONTEXT OF
THE OUTER SPACE TREATY

Abstract

This paper examines the nature of appropriation and ownership out of private law to better serve their application in the context of international space law. The non-appropriation principle of the Outer Space Treaty has posed obligation over States concerning national appropriation on celestial bodies in outer space including the Moon, while an activity of actual appropriation depends on a State's sovereignty, which is the endorsing source of ownership. With their entwined relationship in mind, this paper focuses on two key issues. First, how could the definition of appropriation and ownership be analysed and developed to interpret the non-appropriation principle? Second, to what extent could these two definitions and their practices effect each other?

On one hand, this paper presents the legal ambiguity of the Outer Space Treaty in respect of the definition of appropriation, especially the direct mention of national appropriation which articulates in its Article 2 that "Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means", while there is no explicit provisions further interpreting the term "national appropriation". On another, this paper analyses the nature of appropriation and ownership in the context of the international space law while trying to point out their significance in the interpretation of Article 2 articulating one of the most important principles that protects the orderly exploration and use of outer space.

The paper then presents legal recommendation for reasonably extending the non-appropriation principle in its application to private space activities, especially under the circumstances that property rights over immovables and movables of celestial bodies in outer space may be claimed by private entities via the endorsement of State, which can lead to a "legal" violation of the non-appropriation principle.