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THE ROLE OF INTERNATIONAL TERRITORIAL ADMINISTRATION IN (SEMI)PERMANENT
LUNAR PRESENCE

Abstract

Albeit different in nature, ESA Moon Village, the Chinese-proposed International Lunar Research Station, Jeff Bezos' plans on lunar industrialization and ongoing commercial missions (i.a.), all imply increased presence on the Moon. The seemingly inevitable growth of lunar activity will undoubtedly raise more questions about governance, free access, interference and territorial management – and perhaps more importantly – addressing these questions in a timely manner will become imminent.

Outer space has historically been on the forefront of international cooperation and with national borders off the table in imagining future outer space relations, the 1967 Outer space treaty (OST) precludes appropriation of celestial bodies.

(How) Should lunar territory therefore be administered, governed and overseen? Today, the International space station symbolizes one of the biggest achievements of international cooperation. Its governance is based on an intergovernmental agreement, the legitimacy of which stems from Article VIII of the OST as jurisdiction and control over space objects remains with the launching state. Despite the clear success of the IGA, Article II of the OST prevents the same model being followed for governance of celestial bodies, since a select group of states does not have the jurisdiction to administer these areas. As a corollary, administration models based on shared sovereignty known in international law (i.e. condominium regimes) are also precluded.

We should not overlook and diminish the importance of Article I of the OST, where exploration and use of outer space is considered the province of all mankind. The question is therefore clear: who can represent mankind? The preamble to the UN Charter justifies the creation of the United Nations exactly through the representation of “mankind” and “all peoples”.

Moreover, the UN is able to assume International territorial administration (ITA) and has done so in post-conflict environments through different models and with varied levels of success (Free Territory of Trieste, UNTAC, UNMIK, UN-TAET, . . .). In today's reality of space exploration, we should however focus on preventing conflict before it occurs. Through legal, historic, political and anthropological analysis, this paper will evaluate past models and determine: (i) which elements found therein are suitable for administration of celestial bodies (ii) what were the circumstances leading to their creation and (iii) what governance models work best in unique multi-stakeholder frameworks.

The paper will ultimately serve as a valuable resource to identify opportunities and challenges for potential International territorial administration mechanisms tailored to fit the needs of increased lunar presence.