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ANALYZING THE LEGALITY OF MILITARY USE OF RESOURCES EXTRACTED FROM THE
MOON UNDER THE OUTER SPACE TREATY

Abstract

The Moon contains various minerals and rocks including Titanium, Aluminium, Iron and Ilmenite etc. that can be mined and incorporated into different products. Considering the keen interest of military powers such as United States, Russia China and India to conduct mining activities on the moon, there are high possibilities of such extracted minerals to be used for military purposes, i.e. incorporated into weapons, armors, structures in the future. In that case, is military use of resources extracted from the Moon permitted under the Outer Space Treaty?

The Outer Space treaty provides every state the right to extract and use resources from the Moon, however with limitations under the treaty.

Under Article I of the Outer Space treaty, the exploration and use of the Moon is Province of all mankind and that it should be conducted for the benefit and in interest of all countries. Despite the deterrence value and dual use posed by military activities, this paper will establish that military activities are solely driven by the national interest and can never be beneficial for all countries.

Article II of the treaty proscribes appropriation of moon and its resources and for such determination considers the intended use of such extracted resources from the Moon.

Further Article IV para 2 of the Outer space treaty mandates all State parties to "use" the Moon exclusively for peaceful purposes. However the provision fails to define the meaning of the term "peaceful".

Thus this paper will adopt the rules of interpretation under The Vienna Convention on the Law of Treaties to establish that the term "peaceful" can only be interpreted as "Non-Military" and that any interpretation allowing "use" of the moon and its resources for military purposes would defeat the object and purpose of the treaty. The paper will also discuss about the evolution from negative peace i.e. mere absence of war or aggression, to a broader concept of Positive peace in the contemporary times.

This paper would also draw comparisons to Article I of The Antarctic Treaty and how the strict provision under the treaty has proved effective in protecting the region from any Military activity and that a similar restriction should be placed on military activities on the Moon.

Thereby this paper would conclude that military use of resources extracted from the Moon is prohibited under the Outer Space treaty and that such an "use" would amount to appropriation of the Moon.