

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Moon and Mars Settlement: Open Legal Issues (2)

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LEGAL ISSUES REGARDING MOON EXPLORATION AND COLONIZATION

Abstract

The future of human exploration and use of the Moon raises a certain number of legal issues. Those issues differ from the ones raised by the future Martian exploration. First, lunar exploration is near to come and will be made with current space law principles. Secondly, the human interests for the Moon are mostly emerging from public entities (European Space Agency, Nasa, etc.), while Mars projects are being invested mostly by the private sector (SpaceX). When the first ones are exploration projects, the second ones are colonization premises. That is why this presentation will be specific to lunar legal issues. We will present international law principles applying to human activities on the Moon only ; focusing on lunar projects already in preparation or already announced by credible actors.

This introduction made, legal issues for Moon exploration can be classified this way : first we will expose issues regarding the legal protection of the Moon itself ; secondly, we will expose legal issues regarding the legal protection of human presence on the Moon – or the protection of human activities.

The aim of those two parts is to demonstrate that while human and state activities are legally protected (jurisdiction of States, rescue of Astronauts, freedom of exploration and use of celestial bodies) ; that the legal protection of the Moon itself is not really guaranteed (lack of environmental protection, lack of international regime for resources exploitation). Moreover there is a gap between the protection of spacefaring nations interests in outer space and the developing countries. This is explainable by the failure of the Moon Agreement : that is to say the failure of the protection of the lunar environment on one hand and the failure of the benefit of Moon exploitation for developing countries on the other hand.

This dissymmetry is the main issue that will be discussed in this presentation if it is accepted : the need to legally protect humans on the Moon as to protect the Moon of humans. The presentation will detail existing legal regime for Moon exploration and propose evolutions and future perspective for a better exploration.