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NEAR-EARTH ASTEROID EXPLOITATION: LEGAL ISSUES AND THE WAY FORWARD

Abstract

With the increased human activities, we are evidencing a sharp depreciation in the natural resources over the period of time. Some of the essential resources have reached the level of critical shortage, which has seriously prejudiced the interests of not only the future generations but also the present generation. Hence, the plans are being devised for the exploitation of resources in the outer space to meet our demands. Recent developments in the developed States like the United States of America and Luxembourg indicate that the resources in the near-earth asteroids are the first target of such exploitation. While both of them have adopted laws to confer private property rights over asteroid resources, many other States are also at the verge of adopting similar laws. These developments bring forward multiple questions relating to asteroid resource exploitation under the existing space laws. Historically, the space law has developed on the strong foundations of common rights. The space resources, being the charity of nature, should belong to everyone was the logic behind advocating common rights as against individual rights. Articles I and II of the Outer Space Treaty 1967 and Article 11 of the Moon Agreement 1979 are the torchbearers of common rights' philosophy under international space law. However, the recent developments in terms of national space laws seem to go against this common rights' philosophy by granting individual rights over asteroid resources. Hence, the questions have arisen on the justifiability of asserting rights over asteroid resources. Though the States have tried to defend their move by giving a restrictive meaning to the phrase 'moon and other celestial bodies' used under both the Outer Space Treaty and the Moon Agreement to exclude asteroids and their resources, as well as to the phrase "natural resources in place" under Article 11(3) of the Moon Agreement, such an attempt is not beyond controversy. In light of the above developments, the most significant issue to be pondered upon is the dilemma between the international regulation of asteroid resources under the space treaties and justifiability of allowing domestic norms to govern the asteroid resource exploitation. Hence, this paper would first probe into the need for asteroid resource exploitation, and then go on to analyze the international space treaties as well as national space laws relating to exploitation of asteroid resources. Finally, the paper would suggest a better model for sustained exploitation of asteroid resources for the benefit of all.