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HUMAN SETTLEMENT IN OUTER SPACE: THE NEED FOR AN INTERNATIONAL LEGAL FRAMEWORK

Abstract

Human settlement hitherto captured in the world of science fiction, is now becoming a living reality. There is an upward trend in the volume of private sector commercial space activity, with the last decade witnessing major technological advancements in space travel. The law nevertheless, remains the same. In order to facilitate the commercial advancement by private enterprises, States have established regulatory framework for the protection of all the parties concerned. Often, states subject private corporations to a licensing requirement and make provision for attributing responsibility to the companies in the event of an untoward incident. On the face of it, it does seem like legal issues can be resolved within the framework of the national space legislation. The author, however, is of the view that application of national legislation would pose practical difficulties with varying standards based on nationality on Earth. Within the Earth's ambit, we have well established systems of law which will govern issues such as sovereignty, safety and security. There is of course, a need to address how legal issues such as immigration, citizenship, human rights, dispute resolution will be dealt on the Moon or Mars. The more fundamental area though is the question of territorial rights, sovereignty and jurisdiction over these bodies. The objective of this paper is to identify the legal principles based on which human settlement will be governed. Though the Outer Space Treaty declares that space is the province of all mankind, we still have various States and private entities alike competing to win the space race and definitely not as one unit. With the USA and companies such as SpaceX paving the way, other countries are concerned about their place in such settlement. Limiting access to space only to space-faring states definitely does not fit in well with the principle of non-appropriation laid down in Article II of the Outer Space Treaty. Is it then possible to obligate the successful states to provide opportunities to citizens of other states as well? If it is so, how would we be able to enforce such an obligation in the absence of any legal institution. The paper seeks to provide an international cooperative framework to harmonize the national legislation. The researcher recommends that an international framework will provide the necessary legal foundation on which space colonies can depend.