

6 ADALAH

Buletin Hukum & Keadilan

Implications of the Space Agreement; A Critique of the Statement of the American President to Exploit Space Resources

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Abstract:

As the world's population grows increasing demand for the planet's limited resources, developed countries begin to explore outer space. One of them is the United States through its president statement Donald Trump who will explore and exploit space resources. While the law of space, including natural resources contained therein is a shared heritage of humanity. Whether said activities comply with the current provisions of international space law?

Keywords: *Outerspace, Natural Resources, Mining, Heritage of Mankind*

Abstrak:

Ketika populasi dunia menumbuhkan permintaan akan sumber daya yang terbatas di planet ini, negara-negara maju mulai menjelajahi luar angkasa. Salah satunya adalah Amerika Serikat melalui pernyataan presidennya Donald Trump yang akan mengeksplorasi dan mengeksploitasi sumber daya ruang angkasa. Sedangkan hukum ruang, termasuk sumber daya alam yang terkandung di dalamnya adalah warisan kemanusiaan bersama. Apakah kegiatan tersebut memenuhi ketentuan hukum ruang angkasa internasional saat ini?

Kata Kunci: *Outerspace, Sumber Daya Alam, Penambangan, Warisan Manusia*

Prolog

The statement of US President Donald Trump, who has signed an agreement that America will explore natural resources in space, one of which on the moon. The Moon and other celestial bodies, such as Mars and asteroids, contain an abundant amount of resources that are scarce or non-existent on Earth, such as the isotope Helium-3 or useful metals like nickel and platinum. The moon also holds significant amounts of water contained in beds of ice found in 'permanently shadowed craters'. Scientists estimate that within about 40 of these craters there are 1.3 trillion pounds or 600 million metric tonnes of water-ice. Translated to rocket fuel, this amount 'would be enough to launch one space shuttle per day for 2,200 years. This makes the moon a very attractive option to house a space refuelling station.

It reminds the writer of a sentence that was made by Tsiolkovski Mr. Russian rocket who said that "Earth is the cradle of humans but we cannot stay continue in the cradle." This was reinforced by the American space scientist Krafft Ehrlicke in his thesis on the industrialization of the moon which states that "a stage of exploitation of natural resources on the earth's satellites which in its opinion reduces the anxiety of the earth's population due to the limitations of planetary natural resources. Such anxiety reflects the opinions of followers of the limits to growth theory. Must move towards the threshold of exploitation of the moon". Even worse, in 2015 the United States government unilaterally passed the US Commercial Space Launch Competitiveness Act. It magnanimously states that US citizens "shall be entitled to any asteroid resource or space resource obtained, including to possess, own, transport, use and sell the asteroid resource or space resource obtained in accordance with applicable law, including the international obligations of the United States."

In principle, technological progress has made it possible to expand state activities to other regions. When humans began to explore space, legal experts immediately moved to avoid the legal vacuum.

So that formed the Space Treaty 1967 and other rules. Space Treaty is the foundational text of international space law. It entered into force in 1967 and has been signed and ratified by over 100 nations, including the US. While it deals in large part with preventing any one nation from gaining a military advantage in space, it also has significant consequences for commercial mining activity. While the Outer Space Treaty is the 'constitution' of international space law, the following treaties also bear on commercial space mining ventures. The Agreement Governing the Activities of States on the Moon addresses resource extraction from the moon. It declares that the moon and other celestial bodies in the solar system, as well as their natural resources, are the 'heritage of all mankind'. concept discussed in greater detail in the Moon Agreement and has been signed by fewer than 20 countries but was not signed by the US or other space faring nations.

So that, the Moon Treaty 1979 seems to have been interpreted by Americans differently and contradicting, one of which was interpreting Article XI of the treaty. This Article contains the determination of the moon and the natural resources it contains as a common heritage of mankind. America does not hesitate to show the agreement as opposed to its national interests. Not only that the Space Treaty 1967 which regulates the issue of peaceful space use as well as freedom of exploration and use for the benefit and interests of all countries seems interpreted differently for the Superpower.

However, if examined further the background of the formation of the space agreement then we increasingly realize that the space agreement device is an accommodation that gives space to super power countries such as the United States and Russia in continuing their efforts by making space a new arena for military confrontation later. day. Even professor of international law and space law from McGill University, Vlastic, said that "if the majority of countries knew from the beginning that instruments in the field of space law could be a means of freedom of super power militarizing space whether they

included their signatures on instruments that? " (Vlasic, *Disarmament Decade, Outer Space and International Law*, McGill Law Journal, Vol. 26 1981). And likewise if it is carefully understood how the contents of the space treaty 1967 and the Moon Agreement 1979 open many broad interpretations and may even be different.

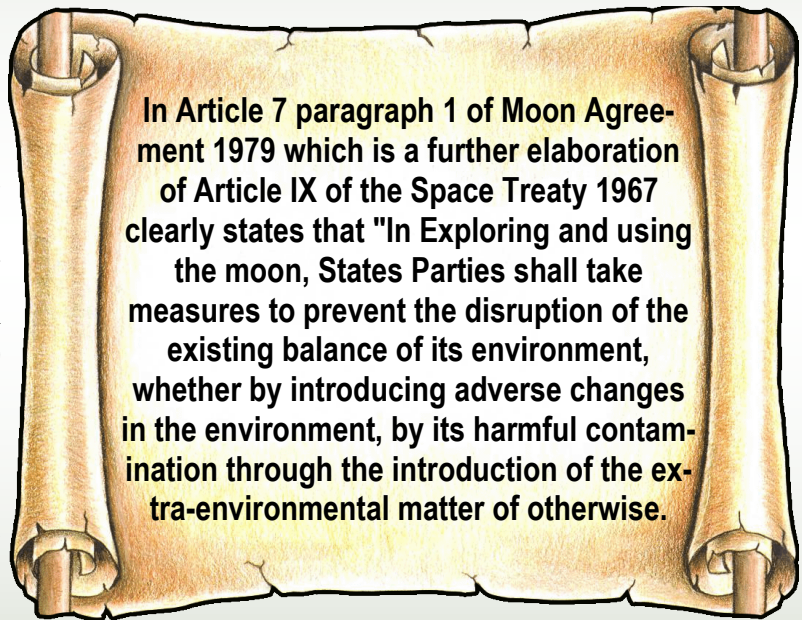
This is what ultimately makes America or even the Soviet Union often go hand in hand when there is a tendency in which the international world takes part in setting a normative framework that can reduce the work of two superpowers in the space field. Included in the concept of shared heritage of mankind is clearly stated in Article XI of the lunar agreement which reads "the moon and its natural resources are the joint heritage of mankind". When legal experts from several countries agree that the moon cannot be the object of the power of a country and the natural resources and wealth produced by the moon are shared assets of mankind, including when a country undertakes commercial activities or exploitation beyond scientific or research purposes, it must wait the formation of an international regime. But the concept of joint humanity's inheritance with the interpretation of some third-world jurists as stipulated in the moon agreement is a form of tendency that is not favoured by the two superpowers.

It is undeniable that space is now the object of more attention for developed countries. The location of space far from the earth's land does not prevent humans from carrying out activities that can provide the benefit of multiple interests. Even industrialized countries cannot deny the truth of the "outer space is a waste of the taxpayer's money" syndicate (regarding this satire can be seen in Edward R. Finch and Amanda L. Moore, *Astrobusiness: A Guide to the Commerce and Law of Outer Space*, Interstate Book Manufacturers, 1984, p. XVI). Commercial activities include a variety of activities related to space to obtain economic benefits.

The forms of activities such as communication, remote sensing, space transportation systems, materials processing

(manufacturing), power generation also mining, (Nathan C, Goldman, *Space Commerce*, Ballinger Publishing Company, Cambridge, 1985). Even in the Journal entitled *The New World Satellite Order* by Gregory C. Staple, in 1985 American income derived from satellite television programs amounted to nearly four billion dollars, a figure that can be said to be very large when compared to all the world's investment in satellite systems. amount to only about twenty billion dollars.

The depletion of reserves of natural resources on earth, making a superpower like America eager to explore and exploit the resources in space, especially the Moon. In connection with that, of course the possibility of pollution and environmental damage will occur on the moon and other celestial bodies due to exploration. In Article 7 paragraph 1 of Moon Agreement 1979 which is a further elaboration of Article IX of the Space Treaty 1967 clearly states that "In Exploring and using the moon,



In Article 7 paragraph 1 of Moon Agreement 1979 which is a further elaboration of Article IX of the Space Treaty 1967 clearly states that "In Exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment, whether by introducing adverse changes in the environment, by its harmful contamination through the introduction of the extra-environmental matter of otherwise.

States Parties shall take measures to prevent the disruption of the existing balance of its environment, whether by introducing adverse changes in the environment, by its harmful contamination through the introduction of extra-environmental matter of otherwise. States parties shall also take measures to avoid harmfully affecting the environment of the earth through the introduction of extra-terrestrial matter of otherwise "the meaning of the Article stipulates that member countries of the moon agreement are requested not to damage

and contaminate in the exploration and use of the moon.

In fact, law cannot rule out the fact that between countries there are differences in the potential of scientific knowledge, economics and space technology. But it is clear that the purpose of making the rules has been mutually agreed upon namely to ensure that no country will be selfish even though it has a special level. As stated by Priyatna Abdurrasyid that "even though the use of space is limited to several large countries and several other countries have conducted investigations in certain parts. But the rights of other countries must still be guaranteed "

But if America's exploration and exploitation continue to be carried out on the grounds that space is free to be explored, then what about other countries, especially developing countries? Aren't space resources a shared heritage of mankind (heritage of mankind)? Is not the space activity used for the benefit of all nations, not just one nation or country? Such a question certainly must be answered with certainty before the possibilities of the exploration and exploitation of natural resources in space in that month occur. Countries that have signed international treaties regarding space both the Space Treaty 1967, Moon Agreement 1979 and other agreements need to conduct a moratorium on each country's individual activities to exploit natural resources in space. At least renew the increasingly obsolete treaties, which during this time still contain many different interpretations from each country. The most impact is felt by developing countries, so that all developing countries must have thought of all the possibilities that will occur when developed countries first have a space technology sphere that is so sophisticated in exploring and exploiting space resources.

Epilog

Space resources, regarded as "commons", is unstructured and crippled by the confusion of the notion and essence of "commons"

between the economic and the legal meanings. And the notion of “commons”, often applied to outer space, is of limited or unclear meaning, and it does not imply the property rights regimes in the domains and resources it presumably describes, including outer space. The Moon Treaty of 1979 stating that the Moon and other Solar System bodies “should be used exclusively for peaceful purposes, and their environments should not be disrupted”. because, “the Moon and its natural resources are the common heritage of mankind and an international regime should be established to govern the exploitation of such resources when such exploitation is about to become feasible”. Now, the only problem is that none of the space-faring nations have ratified the agreement. That’s correct, there is no legally binding international treaty to stop sovereign nations like the USA from plundering another celestial body. And all countries must be able to seek a strong reaction to demand economic aspirations that are based on principles of justice, equality and fundamental freedoms. If necessary, amendment to the Outer Space Treaty to provide with legal clarity

The need to explore is inherently human, and every successful space mission brings delight to every country. But let us learn from past mistakes and manage space resources sustainably.

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