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AN EXCLUSIVE PROPERTY MODEL FOR COMMON HERITAGE OF MANKIND IN OUTER
SPACE

Abstract

No official definition was given to the concept of Common Heritage of Mankind (CHM) and its substance has remained uncertain and controversial. There is a need to clarify the content of the CHM, including its legal status, characteristics, scope and utilization system. This paper starts with an analysis of the legal status of the CHM, which forms the basis for the discussion on other relevant issues. The analysis of the legal status helps to identify the legal subjects as to whom can exercise rights to the CHM and what types of rights they have, and vice versa. The study of the legal status of the CHM under the United Nations Convention on the Law of the Sea (UNCLOS) is helpful to the understanding of the concept in the space field. It is argued that an exclusive property model is the one successfully implemented in the UNCLOS regime., i.e., the CHM is defined as an exclusive property of mankind. Mankind, as a separate entity, can have ownership over the CHM, while other entities can only exercise usufruct to the CHM. This paper moves further to evaluate the feasibility of transplanting this model to the CHM in other fields, in particular the space field. It is argued that the model under the UNCLOS provides a useful reference for the space law field. The international society should work together to come up with a utilization system to benefit from the CHM. A multilateral approach, instead of unilateral measures, can best protect the interests of both the international society as a whole and individual States. The legal status and characteristics of the CHM can only be justified by a multilateral approach by setting up an international regime for exploitation and utilization of natural resources in outer space.