

The Role of State Practices and Custom in Outer Space Law

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Abstract : Space law is the new entry in the basket of international law in the latter half of the 20th Century. In the last hundred and fifty years, courts and scholars developed a consensus that, the custom is an important source of international law. Article 38(1) (b) of the statute of the International Court of Justice recognized international custom as a source of international law. State practices and usages have a greater role to play in formulating customary international law. This paper examines those state practices which can be qualified to become international customary law. Since, 1979 (after Moon Treaty) no hard law have been developed in the area of space exploration. It tries to link between state practices and custom in space exploration and development of customary international law in space activities. The paper uses doctrinal method of legal research for examining the current questions of international law. The paper explores different international legal documents such as General Assembly Resolutions, Treaty principles, working papers of UN, cases relating to customary international law and writing of jurists relating to space law and customary international law. It is argued that, principles such as common heritage of mankind, non-military zone, sovereign equality, nuclear weapon free zone and protection of outer space environment, etc. developed state practices among the international community which can be qualified to become international customary law.

Keywords : customary international law, state practice, space law, treaty

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