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Frans G. von der Dunk
University of Nebraska - Lincoln, fvonderdunk2@unl.edu

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Book review

From Manganese Nodules to Lunar Regolith: A Comparative Legal Study of the Utilization of Natural Resources in the Deep Seabed and Outer Space,

by Lotta Viikari, University of Lapland,

Rovaniemi, 2002, 162p.

Ever since the beginning of the space age and the first substantive discussions on the law of outer space in the late 1950s, comparisons have been made between that new and developing body of (international) law and the much older body of the international law of the sea. And indeed, from a bird's eye perspective there are a number of interesting similarities between the two areas, so it is only logical that expert writing on space law has to a substantial extent leaned on law of the sea developments, analyses and reasoning in furthering the development of the former.

The new book by Lotta Viikari, *From Manganese Nodules to Lunar Regolith – A Comparative Legal Study of the Utilization of Natural Resources in the Deep Seabed and Outer Space*, a slightly revised version of a master's thesis defended at Rovaniemi in 2001, is therefore certainly not the first comparative legal study comparing the legal domains of the sea and outer space. It is, however, an excellent one.

First of all, the author has chosen to focus on a specific sub-theme playing in both fields: the utilization of exhaustible natural resources. By doing so, it has been possible actually to demonstrate the many similarities between the sea and outer space as an environment for human activities—as well as the dissimilarities, which are also many.

The author provides an overview of the technical and operational aspects which are, or at least should be, taken into account when analyzing legal aspects, and then uses this background for pointing out where the real issues lie, as well as the limitations inherent in legal solutions if they do not take such operational and technical considerations sufficiently into account.

At the same time, in view of the major importance of the subject matter of international resource management and exploitation for global development and the coherence of the international community, the author has hit upon a highly topical and fundamental debate. Without forgetting the nuances and many subtle subdivisions, she manages clearly to convey the fundamental dichotomy of interests between the haves and the have-nots, and how that has to a large extent determined legal developments in both areas.

Thus, while focusing on the sub-theme of natural resource utilization (from exploration through to commercial exploitation), showing broad command of the subject in both areas, the author also manages to convey the broader underlying similarities and dissimilarities between the development of the law of the sea and the law of outer space. So far, for example, I have not come across a more comprehensive yet succinct evaluation of the famed common heritage of mankind concept at the core of the discussions in many respects.

In view, furthermore, of the fact that the author needed only 162 pages of lucid writing to do all that, this book is to be highly recommended. In particular the book's substantive analyses are a must for anyone interested in further development of the law in either area discussed.

Chapter 1 ("Introduction") provides the main definitions and methodology. Chapter 2 ("Classical bases of claims to global commons") focuses on such fundamental concepts as *res communis*, *res nullius* and the common heritage of mankind, based on a sound understanding of the general public international law context, as well as the specific law of the sea as it compares with outer space-related aspects. Chapter 3 ("General questions related to the utilization of natural resources") then further prepares the stage for the legal analysis properly speaking by sketching general, including political and philosophical issues as they crucially bear upon the more narrowly legal issues.

The main substantive analysis follows in Chapters 4 and 5. Chapter 4 ("Legal solutions adopted: The deep seabed") provides an excellent overview of the development of the international law of the sea, increasingly focusing on the issue of deep seabed resource sharing and management. For space lawyers, the description and evaluation of the Third UN Conference on the Law of the Sea and the resulting 1982 UN Convention on the Law of the Sea, as well as post-Convention developments leading to the establishment of the 1994 New York Agreement which fundamentally changed the application of the common heritage of mankind-principle to the seabed, constitute fascinating reading.

Conversely, Chapter 5 ("Legal solutions adopted: Outer space") will provide law of the sea-experts with a broader view of the various issues dealt with in the context of the Third UN Conference on the Law of the Sea and its aftermath—and probably make them realise that the results in the law of the sea context are not something to be ashamed of after all.

The lack of precision in the Outer Space Treaty on issues of resource management is brought into proper focus by the lack of success of the Moon Agreement, which at least to some extent represented an effort to redress the former's lack of precision. Comparison thereof with the law of the sea developments—in Chapters 6 ("Status of the 1982 UNCLOS and the Moon Treaty") and7 ("Evaluation of the common features of and principal differences between the 1992 UNCLOS and the Moon Treaty")—provides a number of lessons to be learned for those currently engaged in efforts to arrive at a feasible as well as a fair regime for exploitation of the Moon's natural resources.

The comparative analysis undertaken also brings together many interesting insights into the interactions of the two legal systems—for a major part, the development of a legal regime for exploitation of the deep seabed's natural resources ran parallel with the development of the Moon Agreement and its problems with widespread ratification afterwards.

Apart from a few minor mistakes or debatable statements—e.g. in the context of the discussion of the legal status of outer space vis à vis the Moon, private appropriation is too easily equated with the "national appropriation" of Article II, Outer Space Treaty, which is prohibited whether "by claim of sovereignty…or by any other means"—the only criticism which might be levelled would apply to Chapter 8 ("Conclusions"). It is a bit disappointing to find that this concluding chapter provides little more than a short and flat description of some of the possible solutions for a future regime for exploitation of the Moon's natural resources, plus a few general statements which, by the time the reader has advanced to this chapter, have become somewhat of an open door.

Perhaps it is the high level of analysis and evaluation of the many aspects of the issues discussed which has raised the standard of expectation too high, but one would have been very interested in the author's opinion as to *which* solution would be preferable, at least from a legal perspective, and why. Even better, one would have liked to see some more pages of detailed elaboration of such a solution. Overall, however, this does little to diminish the value of the book, which at the highest level has also become an interesting case study of the interaction of law and policies in the international domain.

Frans G. von der Dunk

University of Nebraska-Lincoln School of Law
E-mail address: fvonderdunk2@unl.edu

Formerly of: International Institute of Air and Space Law, Leiden University, Hugo de Grootstraat 27A, Leiden, Netherlands